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Agencies in this issue—

Detailed list of Contents appears inside.

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Contents

(Continued on next page)

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1970, and specifies how they are affected.

5 CFR

213 ... 7559

7 CFR

PROPOSED RULES:
1007 ... 7566

12 CFR

1 ... 7549
226 ... 7550

14 CFR

39 (4 documents) ... 7551, 7552
71 (4 documents) ... 7552, 7553
73 ... 7553
75 ... 7553
PROPOSED RULES:
71 (7 documents) ... 7584–7586
207 ... 7587
208 ... 7587
212 ... 7587
214 ... 7587
249 ... 7587
295 ... 7587
399 ... 7587

21 CFR

120 (2 documents) ... 7553, 7554
PROPOSED RULES:
19 ... 7568
120 ... 7569
135 ... 7569
144 ... 7569

22 CFR

41 ... 7554

24 CFR

1914 ... 7560
1915 ... 7561

26 CFR

147 ... 7555

31 CFR

PROPOSED RULES:
10 ... 7565

32 CFR

888c ... 7562

33 CFR

126 ... 7556

36 CFR

7 ... 7556

41 CFR

101–32 ... 7557

47 CFR

73 ... 7558
PROPOSED RULES:
64 ... 7609

49 CFR

1134 ... 7559
PROPOSED RULES:
571 ... 7586

Rules and Regulations

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Securities eligible for underwriting and unlimited holding.

Sec.

AUTHORITY: The provisions of §§ 1.255–1.260 issued under R.S. 324 et seq., as amended, paragraph Seventh of R.S. 5136 as amended, 12 U.S.C. 1 et seq., 24, unless otherwise noted.

§ 1.255 Redevelopment Agency of the City of Corona (California) Library Lease Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $1 million Library Lease Revenue Bonds of the Redevelopment Agency of the City of Corona for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Redevelopment Agency of the City of Corona is a public body, corporate and politic, created under the Community Redevelopment Law of the State of California. Under the law, the Agency has power to issue bonds for any of its corporate purposes. It is engaged in the redevelopment of the Downtown Redevelopment project area of the City of Corona. The redevelopment plan for this area provides for a city library. The Agency is issuing these bonds to finance a part of the cost of the construction of the library which will be leased to the City. The remainder of the cost, amounting to $562,691, will be paid for from Federal and State grants and from City funds.

(2) Under the lease rental agreement the City has unconditionally promised to pay annual rentals to the Agency in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The City which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1 million Library Lease Revenue Bonds of the Redevelopment Agency of the City of Corona are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated Mar. 17, 1970.)

§ 1.256 State Board of Directors for Junior Colleges of Arizona, Maricopa County Junior College District Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $2,500,000 State Board of Directors for Junior Colleges of Arizona, Maricopa County Junior College District Revenue Bonds, Series of 1967, Project B, Phase III (1970), for purchase, dealing in, underwriting, and limited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The State Board of Directors for Junior Colleges is authorized under the laws of Arizona to issue revenue bonds to finance the construction of revenue producing buildings and related facilities to be located in any junior college district and to pledge fees, rentals, and other charges derived from any district revenue producing projects for the payment of the bonds.

(2) The State Board is issuing these bonds to finance the construction of a student union building, including classrooms, cafeteria, and meeting rooms; a gymnasium, including classrooms and two parking lots, to be located on the campuses of Maricopa County Junior College District in Maricopa County, Ariz. Fees, rentals, and other charges pledged are expected to provide amounts sufficient to meet annual interest and principal payments on these bonds.

(c) *Ruling.* It is our conclusion that the $2,500,000 State Board of Directors for Junior Colleges of Arizona, Maricopa County Junior College District Revenue Bonds (1970) are issued by an agency of the State of Arizona for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the 10 percent limitation with respect to aggregate holdings of obligations issued by the State Board of Directors for Junior Colleges. (Comptroller's letter dated Apr. 6, 1970.)

§ 1.257 County of Wayne, State of Michigan, Airport Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $69 million County of Wayne, State of Michigan, Airport Revenue Bonds, Series VIII, for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Political subdivisions are authorized by the laws of Michigan to acquire, establish, construct, and enlarge airports and related facilities, to finance such projects through the issuance of revenue bonds, to pledge airport revenues as security for such bonds and to agree that if pledged funds are insufficient for the payment of principal and interest when due, moneys sufficient to make up the deficiency will be advanced from the general funds of the political subdivision.

(2) The County of Wayne is issuing these bonds to finance the acquisition and construction of additions, extensions, and improvements to Detroit Metropolitan Wayne County Airport which it owns and operates. The bonds and earlier issues of Airport Revenue Bonds are equally secured by a pledge of and a first lien on the net revenues of the Airport. The sufficiency of the net revenues is guaranteed by agreements with the using airlines that they will pay supplemental fees sufficint to produce Airport net revenues in an amount equal to 133⅓ percent of current debt service requirements.

(3) The County of Wayne, which possesses general powers of taxation, has made the authorized agreement to advance moneys out of its general funds and has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $69 million County of Wayne, State of Michigan, Airport Revenue Bonds, Series VIII, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks. (Acting Comptroller's letter dated Apr. 16, 1970.)

§ 1.258 Mountain View Shoreline Regional Park Community (California).

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $1,950,000 Mountain View Shoreline Regional Park Community, Park Facilities No. 1 Bonds, Series A, for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Mountain View Shoreline Regional Park Community is a public body corporate and politic, a special form of local government, created by a special act of the legislature of the State of California to redevelop certain land around the shore of San Francisco Bay as a shoreline regional park and recreational facility. Under the law, the Community has power to issue revenue bonds for any of its corporate purposes.

The law also authorizes the City of Mountain View to sell or lease any of its property to the Community and to buy or otherwise acquire land from the Community.

(2) Land for the park project has been acquired by the City through the use of $1,500,000 of its own funds augmented by a grant of $1,175,000 from the Department of the Interior and $600,000 from the County of Santa Clara. It consists principally of low-lying marshland and marginal agricultural land. Redevelopment for park purposes will require extensive land fill. All the solid waste collected in San Francisco for the next 5 years is expected to be used for this purpose. Contracts entered into with the City of San Francisco and other contractors are expected to permit site preparation required for the park to be accomplished without cost to the Community or to the City of Mountain View. In addition, these contracts provide that the Community will receive a fee per ton of solid waste delivered to the park which can be used to assist in the financing of further development.

(3) The Community is issuing these bonds to finance the City's land acquisition cost. For this purpose, the land acquired by the City will be leased to the Community and the park project will be leased back to the City. Under the lease rental agreement, the City has unconditionally promised to pay annual rentals to the Community in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The City has also agreed that to meet this undertaking it will if necessary levy a special public park acquisition and improvement tax, which is levied in the same manner as the property taxes but is not subject to charter tax rate limitations. The City, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1,950,000 Mountain View Shoreline Regional Park Community, Park Facilities No. 1 Bonds, Series A, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks. (Comptroller's letter dated Apr. 22, 1970.)

§ 1.259 Santa Maria Airport Authority (California).

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $1,600,000 Santa Maria Airport Authority, Airport Facilities Revenue Bonds for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Santa Maria Airport Authority is a public entity created under the laws of California by an agreement between the City of Santa Maria and the Santa Maria Public Airport District. Under this agreement, the Authority is authorized to acquire, construct, and lease public airports and related facilities, and to issue bonds to finance such projects. The Authority is issuing these bonds for the purpose of financing the construction of an administration building and terminal building with passenger lobby facilities, space for two commercial air carriers, rental car facilities, restaurant facilities, and space for general airport concessions. The completed project will be leased to and operated by the District.

(2) The District is a body corporate and politic created pursuant to the laws of California with power to acquire, construct, maintain, operate, and lease public airports and related facilities and having responsibility for the development of airport facilities within a district consisting of 450 square miles in northern Santa Barbara County including the cities of Santa Maria and Guadalupe. The District is managed by elected directors and is financed in part by taxes levied upon all taxable property within the District.

(3) The District, as required by its agreement with the City, has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The District, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Opinion.* It is our conclusion that the $1,600,000 Santa Maria Airport Authority, Airport Facilities Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks. (Acting Comptroller's letter dated May 6, 1970.)

§ 1.260 Water and Sewer Improvement Bonds, Series 1970, of the Northwest Houston Water Supply Corp.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $5,500,000 Water and Sewer Improvement Bonds, Series 1970, of the Northwest Houston Water Supply Corp. for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Northwest Houston Water Supply Corp. was organized at the request and for the benefit of the City of Houston as a nonprofit water supply corporation under a provision of Texas law which authorizes the formation of such a corporation for the exclusive purpose of furnishing a water supply or sewer service or both to cities and others. The Corporation is authorized to issue bonds to finance the acquisition of water and sewer projects. A city is authorized by law to enter into a contract for the purchase of water and sewer systems from such a corporation and to agree to make periodic payments to the corporation in amounts which together with other income of the corporation will be sufficient to pay the principal of and interest on the bonds of the corporation. The law also authorizes a city to provide for the levying of a tax to make such payments.

(2) The Corporation has entered into a contract with the City of Houston under which the Corporation will finance and construct a water and sewer system for section 2 of a suburban area immediately adjacent to the City and the City will annex section 2 of the area and purchase the system. Construction of the project will be assisted by a federal grant of $1,500,000. The Corporation is issuing these bonds to finance the remaining costs. The Corporation has issued $2,200,000, Series 1967 bonds, to finance the construction of a water and sewer system for section 1 of the same general area under substantially the same circumstances.

(3) In the purchase contract, the City has unconditionally promised to make periodic payments to the Corporation in amounts which will be sufficient to pay the principal of and interest on these bonds. The contract also provides that the periodic payments shall be payable from a continuing, direct annual ad valorem tax on all taxable property in the City sufficient to make such payments in each year and the City has by ordinance levied such a tax. The City which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, in accordance with our ruling of December 7, 1967 (§ 1.203) relating to the Series 1967 bonds, that the $5,500,000 Water and Sewer Improvement Bonds, Series 1970, of the Northwest Houston Water Supply Corp. are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks. (Acting Comptroller's letter dated May 7, 1970.)

Dated: May 11, 1970.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 70-5981; Filed, May 14, 1970; 8:49 a.m.]

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

PART 226—TRUTH IN LENDING

Exemption of Certain State Regulated Transactions

1. Effective June 1, 1970, Supplement III to Regulation Z (§ 226.12—Supplement) is amended by adding paragraph (c) as follows:

(c) *Oklahoma.* Except as provided in § 226.12(c), all classes of credit transactions within the State of Oklahoma are hereby granted an exemption from the requirements of chapter 2 of the Truth in Lending Act effective June 1, 1970, with the following exceptions:

(1) Transactions in which a federally chartered institution is a creditor;

(2) Consumer credit sales of insurance by an insurer;

(3) Transactions under common carrier tariffs in which the charges for the services involved, the charge for delayed payment and any discount allowed for early payment are regulated by a subdivision or agency of the United States or the State of Oklahoma; and

(4) Transactions in which a licensed pawnbroker is a creditor.

2a. The purpose of this amendment is to exempt certain credit transactions in the State of Oklahoma from the requirements of chapter 2 of the Truth in Lending Act (title I of the Consumer Credit Protection Act, 15 U.S.C. 1601ff).

b. Pursuant to the provisions of 12 CFR 226.12 (Supplement II to Part 226 (Regulation Z)), the State of Okahoma applied to the Board for an exemption from the Truth in Lending Act; notice of receipt of the application was published in the FEDERAL REGISTER of January 7, 1970 (35 F.R. 245). The Board granted this exemption after consideration of all relevant material, including communications from interested persons. The effective date of the exemption was deferred for less than the 30-day period referred to in section 553(d) of title 5, United States Code. The Board found that the amendment essentially involves no change in a substantive rule and deferral of the date beyond that adopted by the Board would serve no useful purpose.

By order of the Board of Governors, May 6, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-5934; Filed, May 14, 1970; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 70-WE-7-AD; Amdt. 39-988]

PART 39—AIRWORTHINESS DIRECTIVES

Sprague Engineering Accumulator Assemblies, P/N A-200-25 and A-200-50

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of aluminum hydraulic accumulator end caps with steel end caps within the next 3,000 hours' time in service after the effective date of the AD, unless already accomplished on civil aircraft certificated in all categories including but not limited to the Boeing Models 707/720/737 aircraft and Convair Model 22 aircraft with the Sprague Engineering Accumulator Assemblies, P/N A-200-25 and A-200-50 installed, was published in 35 F.R. 4263.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Comments were received, objecting to the inclusion of Convair Model 22 aircraft in the AD, and to the 3000-hour compliance time. As the assemblies are distributed generally, and the agency is informed that the assembly has been installed on these aircraft, and perhaps other models, the applicability statement is written to include all installations. Also, as the failures are predicated upon cyclic fatigue, and have occurred within the previously allowed use time, the compliance time is established to preclude similar occurrences. Finally additional recent instances have been reported since the issuance of the notice.

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

SPRAGUE ENGINEERING. Applies to all civil aircraft certificated in all categories including, but not limited to the Boeing Models 707/720/737 aircraft and Convair Model 22 aircraft with the Sprague Engneering Accumulator Assemblies, P/N A-200-25 and A-200-50 installed.

Compliance required within the next 3,000 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent hydraulic accumulator end cap failure due to cyclic fatigue and subsequent explosive hazard to personnel, structure and surrounding equipment, as well as loss of hydraulic system fluid and pressure, accomplish the following:

Replace the aluminum end caps on Sprague Accumulator Assemblies, P/N A-200-25 and -50, with steel end caps, Sprague P/N 60257-2 (oil end cap) and P/N 60257-3 (air end cap), in accordance with the instructions of Sprague Engineering Modification Bulletin No. 2, dated March 28, 1969, or later FAA-approved revisions, and Sprague Overhaul Instructions with Parts Breakdown, Accumulator Assembly, A-200 Series, dated September 1967, or an equivalent installation and replacement approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective May 16, 1970.

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

Issued in Los Angeles, Calif., on May 5, 1970.

LYNN L. HINK,
Acting Director,
FAA Western Region.

[F.R. Doc. 70-5964; Filed, May 14, 1970; 8:48 a.m.]

[Airworthiness Docket No. 70-WE-17-AD; Amdt. 39-989]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707 and 720 Series Airplanes

There have been reported failures of the nose gear door emergency release crank arm Part No. 65-7195-5. One such failure prevented emergency extension of the nose gear and resulted in a nose gear up landing. Since this condition is likely to develop in other model 707 and 720 airplanes, an airworthiness directive is being issued to require inspection and modification of the nose gear emergency extension system.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

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

BOEING. Applies to Model 707 and 720 series airplanes listed in Boeing Service Bulletin 2108 Revision 1 dated December 28, 1965.

Within 200 hours' time in service after effective date of this AD and after each emergency extension, inspect crank arm 65-7195 and pulley bracket 69-1087 for cracks and measure cable tension in accordance with instructions contained in the 707/720 maintenance manual. Inspections may be discontinued after modification indicated below is accomplished.

Within 2,500 hours' time in service after effective date of this AD, unless already accomplished modify all airplanes in accordance with Boeing Service Bulletins 2108 Revision I dated December 28, 1965, and 2108A, dated May 24, 1965, or later FAA-approved revisions to these service bulletins or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

This amendment becomes effective May 16, 1970.

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

Issued in Los Angeles, Calif., on May 6, 1970.

LEE E. WARREN,
Acting Director,
FAA Western Region.

[F.R. Doc. 70-5965; Filed, May 14, 1970; 8:48 a.m.]

[Docket No. 70-CE-5-AD; Amdt. 39-990]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 172I and K Airplanes

There have been fatigue failures of the metal oil pressure instrument line which is routed between the engine crankcase and the firewall on Cessna Models 172I and K airplanes. This type of failure has caused engine oil to be pumped overboard resulting in internal engine damage and subsequent forced landing. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued requiring, within 10 hours' time in service after the effective date of the AD, replacement of the metal oil pressure instrument line with a flexible hose assembly on Cessna Models 172I and K aircraft in accordance with Cessna Service Letter No. SE70-10, dated May 5, 1970.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not practical and good cause exists for making this amendment effective in less than thirty (30) days.

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

CESSNA. Applies to Models 172I (Serial Nos. 17256513 through 17257161) and 172K (Serial Nos. 17256493, and 17257162 through 17259043) Airplanes.

Compliance: Required as indicated, unless already accomplished.

To prevent the loss of engine oil caused by failure of the metal oil pressure instrument line, accomplish the following:

Within 10 hours' time in service after the effective date of this AD, replace the metal oil pressure instrument line between the engine and the firewall with a flexible hose assembly in accordance with the instructions contained in Cessna Service Letter No. SE70-10, dated May 5, 1970, or any other method approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region.

This amendment becomes effective May 19, 1970.

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

Issued in Kansas City, Mo., on May 7, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-5966; Filed, May 14, 1970; 8:48 a.m.]

[Docket No. 10187; Amdt. 39-991]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley "Heron" Model DH.114 Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring periodic inspections of the landing gear locking lever and jack attachment lever for cracks and replacement of levers found to be cracked pending replacement of both levers with new levers made of an improved material on Hawker Siddeley "Heron" Model DH.114 airplanes was published in the FEDERAL REGISTER, 35 F.R. 4709.

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

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

HAWKER SIDDELEY. Applies to "Heron" Model DH.114 Series 2 airplanes which have not incorporated HSA Modification 1093. Compliance is required as indicated.

To prevent failure of the nose landing gear locking lever and jack attachment lever, accomplish the following:

(a) Within the next 150 hours' time in service after the effective date of this AD unless already accomplished within the last 150 hours' time in service, and thereafter at intervals not to exceed 300 hours' time in service since the last inspection, visually inspect the nose landing gear locking lever (P/N 4UN.41A) and jack attachment lever (P/N 4UN.323A) for cracks.

(b) If cracks are found during the inspections required by paragraph (a), before further flight, either replace the cracked lever with a serviceable lever of the same part number or comply with paragraph (c).

(c) Unless already accomplished in accordance with paragraph (b), on or before August 1, 1970, replace the nose landing gear locking lever (P/N 4UN.41A) and jack attachment lever (P/N 4UN.323A) with HSA Modification 1093 levers in accordance with Hawker Siddeley Aviation Ltd. Technical News Sheet Heron (114) No. U.13 dated December 8, 1969, or an FAA-approved equivalent.

(d) The inspections required by paragraph (a) may be discontinued following compliance with paragraph (c).

(e) Upon request by the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Certification Staff, FAA Europe, Africa, and Middle East Region may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This amendment becomes effective June 14, 1970.

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

Issued in Washington, D.C., on May 8, 1970.

WILLIAM G. SHREVE, Jr.,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70-5967; Filed, May 14, 1970; 8:48 a.m.]

[Airspace Docket No. 70-WE-37]

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

Revocation of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Seattle, Wash. (NAS Seattle) control zone.

On June 1, 1970, the Department of the Navy will decommission the Seattle NAS TACAN and control tower. In view of the fact that the control zone is designated on the TACAN and weather services performed by the control tower will no longer be available, the requirement for the control zone is no longer justified.

Since this action releases additional airspace and imposes no burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing in § 71.171 (35 F.R. 2054) the Seattle, Wash. (NAS Seattle) control zone is revoked.

Effective date. This amendment shall be effective 0901 G.m.t., June 1, 1970.

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

Issued in Los Angeles, Calif., on May 4, 1970.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 70-5968; Filed, May 14, 1970; 8:48 a.m.]

[Airspace Docket No. 70-SO-38]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Fort Lauderdale, Fla., control zone.

The Fort Lauderdale control zone is described in § 71.171 (35 F.R. 2054). In the description, extensions are predicated on the Fort Lauderdale VOR 084° radial, with a designated width of 4 miles and length of 10 miles; on the 278° and 306° radials, with designated widths of 4 miles and lengths of 8 miles, and on the 135° bearing from Fort Lauderdale RBN, with a designated width of 4 miles, extending from the 5-mile radius zone to the RBN.

U.S. Standards for Terminal Instrument Procedures (TERPs), issued after extensive consideration and discussion with Government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures was revised to conform to TERPs and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the description as follows:

1. Increase the extension predicated on Fort Lauderdale VOR 084° radial from 4 to 6 miles in width, and the extension predicated on the 306° radial from 4 to 6 miles in width and 8 to 8.5 miles in length.

2. Redesignate the extension predicated on Fort Lauderdale VOR 278° radial to the 276° radial and increase it from 4 to 6 miles in width and 8 to 8.5 miles in length.

3. Revoke the extension predicated on the 135° bearing from the Fort Lauderdale RBN.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 23, 1970, as hereinafter set forth.

In § 71.171 (35 F.R. 2054), the Fort Lauderdale, Fla., control zone is amended to read:

FORT LAUDERDALE, FLA.

Within a 5-mile radius of Fort Lauderdale-Hollywood International Airport (lat. 26°04'15" N., long. 80°09'15"W.); within 3 miles each side of Fort Lauderdale VOR 084° radial, extending from the 5-mile radius zone to 10 miles east of the VOR; within 3 miles each side of Fort Lauderdale VOR 276°

and 306° radials, extending from the 5-mile radius zone to 8.5 miles west and northwest of the VOR.

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

Issued in East Point, Ga., on May 5, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-5969; Filed, May 14, 1970; 8:48 a.m.]

[Airspace Docket No. 69-CE-126]

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

Alteration and Designation of Federal Airways

On January 30, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 1240) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would extend V-175 and designate V-250.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 23, 1970, as hereinafter set forth.

Section 71.123 (35 F.R. 2009) is amended as follows:

1. In V-175 "Sioux City, Iowa." is deleted and "Sioux City, Iowa; Worthington, Minn.; Redwood Falls, Minn." is substituted therefor.

2. V-250 is added to read:

V-250 From O'Neill, Nebr.; Yankton, S. Dak.; Worthington, Minn.; Mankato, Minn.

(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 Washington, D.C., on May 7, 1970.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-5971; Filed, May 14, 1970; 8:48 a.m.]

[Airspace Docket No. 70-WE-10]

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

PART 75—ESTABLISHMENT OF JET ROUTES

Revocation and Designation of Federal Airway and Jet Route

The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations is to revoke segments of VOR Federal airway No. 26 and Jet Route No. 114 and designate as replacements segments VOR Federal airway No. 208 and Jet Route No. 116.

The actions taken herein would revoke V-26 segment between Myton, Utah, and Cherokee, Wyo., and J-114 between Salt Lake City, Utah, and Denver, Colo., designate a segment of V-208 as a replacement for V-26 and designate Jet Route No. 116 as a replacement for the segment of J-114.

These actions are being taken to facilitate flight planning and the automated processing of flight data by the Denver Air Route Traffic Control Center. The extent of airspace presently controlled will not be altered by these actions.

Since these airspace actions are minor in nature, are taken to provide for the safe movement of air traffic, and no substantive change is effected, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., July 23, 1970, as hereinafter set forth.

1. Section 71.123 (35 F.R. 2009) is amended as follows:

a. In V-26 all before "Cherokee, Wyo.;" is deleted and "From" is substituted therefor.

b. In V-208 "Peach Springs, Ariz." is deleted and "Peach Springs, Ariz. From Myton, Utah, 79 MSL, via Vernal, Utah, 19 miles, 105 MSL, Cherokee, Wyo." is substituted therefor.

2. Section 75.100 (35 F.R. 2359) is amended as follows:

a. In the caption J-114 "Salt Lake City, Utah" is deleted and "Denver, Colo." is substituted therefor and in the text all before "Denver, Colo.;" is deleted and "From" is substituted therefor.

b. Jet Route No. 116 is added:

Jet Route No. 116 (Salt Lake City, Utah, to Denver, Colo.) From Salt Lake City, Utah, via Provo, Utah; Meeker, Colo.; to Denver, Colo.

(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 Washington, D.C., on May 8, 1970.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-5970; Filed, May 14, 1970; 8:48 a.m.]

[Airspace Docket No. 70-WE-29]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Areas

The purpose of these amendments to Part 73 of the Federal Aviation Regulations is to change the using agency of the Fort Huachuca, Ariz., Restricted Areas R-2303 A and B. These changes were requested by the Department of the Army.

Since these amendments are minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER, as hereinafter set forth.

In § 73.23 (35 F.R. 2314, 1221, 5465) the Fort Huachuca, Ariz., Restricted Areas R-2303 A and B are amended by changing the using agency from "Commanding General, U.S. Army Electronic Proving Ground, Fort Huachuca, Ariz." to "Commanding Officer, Fort Huachuca Support Command, Fort Huachuca, Ariz."

(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 Washington, D.C., May 7, 1970.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-5972; Filed, May 14, 1970; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Phorate

Two petitions (PP 8F0727 and 9F0744) were filed with the Food and Drug Administration by the American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, proposing the establishment of tolerances for residues of the insecticide phorate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities bean forage at 0.5 part per million; peanut forage and hay at 0.2 part per million; barley grain and straw, beans, milo grain and fodder, and tomatoes at 0.05 part per million (negligible residues); alfalfa hay at 1 part per million; alfalfa at 0.5 part per million; and sugarcane at 0.05 part per million (negligible residues).

Subsequently, the petitioner amended the petitions by proposing the following tolerances in place of those originally proposed: 1 part per million in or on alfalfa hay; 0.5 part per million in or on alfalfa (fresh) and bean vines; 0.3 part per million in or on peanut vines and hay; 0.1 part per million in or on barley grain, barley straw, beans, sorghum grain and fodder, sugarcane, and tomatoes; and 0.05 part per million (negligible residue) in eggs, meat, fat, and meat byproducts of poultry.

The Secretary of Agriculture has certified that this pesticide chemical is useful

for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petitions and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order are safe and will protect the public health. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.206 is revised to read as follows to establish the new tolerances:

§ 120.206 Phorate; tolerances for residues.

Tolerances are established for residues of the insecticide phorate (*O,O*-diethyl *S*-ethylthio) methyl phosphorodithioate), and its cholinesterase-inhibiting metabolites, in or on raw agricultural commodities as follows:

3 parts per million in or on sugar beet tops.

1 part per million in or on alfalfa hay.

0.5 part per million in or on alfalfa (fresh), bean vines, corn forage, hops, and potatoes.

0.3 part per million in or on peanut vines and hay and sugar beet roots.

0.1 part per million in or on barley grain, barley straw, beans, corn grain, sweet corn (kernels plus cob with husk removed), lettuce, peanuts, rice sorghum grain, sorghum fodder, sugarcane, and tomatoes.

0.05 part per million (negligible residue) in meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep, and in eggs.

0.02 part per million (negligible residue) in milk.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 5, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5941; Filed, May 14, 1970; 8:46 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Dimethoate

A petition (PP 0F0867) was filed with the Food and Drug Administration by the American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, proposing establishment of tolerances for residues of the insecticide dimethoate and its oxygen analog in or on the raw agricultural commodities wheat (green fodder and straw) at 2 parts per million; wheat grain at 0.04 part per million (negligible residue); and in meat, fat, and meat byproducts of goats, hogs, horses, and sheep at 0.02 part per million (negligible residue).

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on the consideration given the data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes that:

1. Extension of the established tolerance regarding meat, fat, and meat byproducts of cattle to include that of goats, hogs, horses, and sheep will adequately cover any residues of dimethoate and its oxygen analog in these commodities from both the existing and proposed uses.

2. Finite residues of dimethoate and its oxygen analog are not reasonably expected to occur in poultry eggs or tissues. This use for these commodities is in the category specified in § 120.6(a)(3).

3. The tolerances established by this order are safe and will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.204 is revised to read as follows to establish the above-specified tolerances:

§ 120.204 Dimethoate including its oxygen analog; tolerances for residues.

Tolerances for total residues of the insecticide dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate) including its oxygen analog (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate) in or on raw agricultural commodities are established as follows:

Two parts per million in or on apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, collards, endive (escarole), kale, lemons, lettuce, mustard greens, oranges, pears, peas, peppers, spinach, Swiss chard, tomatoes, turnips (roots and tops), and wheat (green fodder and straw).

One part per million in or on melons.

0.2 part per million in or on potatoes.

0.1 part per million (negligible residue) in or on pecans.

0.04 part per million (negligible residue) in or on wheat grain.

0.02 part per million (negligible residue) in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.

0.002 part per million (negligible residue) in milk.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 5, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5942; Filed, May 14, 1970; 8:46 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. 108.619]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Nonimmigrant Documentary Waivers

Part 41, Chapter I, Title 22 of the Code of the Federal Regulations is amended to provide that a visa is required of an alien classified under section 101(a)(15)(K) of the Act, notwithstanding the waiver of visa requirements provided by paragraphs (a), (b), (c), and (d) of § 41.6.

Section 41.6 is revised to read as follows:

§ 41.6 Nonimmigrants not required to present passports, visas, or border-crossing identification cards.

* * * * *

(g) *Fiance or fiancee of a United States citizen.* Notwithstanding the provisions of paragraphs (a), (b), (c), and (d) of this section, a visa shall be required of an alien described in such paragraphs who is classified, or who seeks classification, under section 101(a)(15)(K) of the Act.

(Sec. 101, 84 Stat. 116; 8 U.S.C. 1101)

Effective date. These amendments shall become effective upon publication in the FEDERAL REGISTER.

The provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

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

MAY 6, 1970.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization, Immigration and Naturalization Service, Department of Justice.

MAY 12, 1970.

[F.R. Doc. 70-6000; Filed, May 14, 1970; 8:51 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7041]

PART 147—TEMPORARY REGULATIONS UNDER THE INTEREST EQUALIZATION TAX ACT, AS AMENDED BY THE INTEREST EQUALIZATION TAX EXTENSION ACT OF 1969

Election by Certain Domestic Financing Companies To Be Treated as Foreign Issuers or Obligors

In order to prescribe regulations providing rules for certain domestic financing companies to elect to be treated as a foreign issuer or obligor under section 4920(d) the Temporary Regulations under the Interest Equalization Tax Act, as amended by the Interest Equalization Tax Extension Act of 1969 (26 CFR 147) are amended by adding the following new section:

§ 147.7-7 Election by certain domestic financing companies to be treated as foreign issuers or obligors.

(a) *In general.* In general section 4920(d) provides that a domestic financing corporation engaged in acquiring debt obligations of foreign obligors relating to certain defined business transactions (described in paragraph (c)(2) of this section), which obtains funds for acquiring such debt obligations from persons other than U.S. persons or certain foreign partnerships or corporations related to U.S. persons, may elect to be treated as a foreign issuer or obligor with respect to such acquisitions for purposes of chapter 41 of the Internal Revenue Code. To be eligible for such treatment such corporation must satisfy the conditions which are set forth in paragraphs (b) through (g) of this section. During the period an election is in effect, such corporation is treated for purposes of sections 4912 and 4915, as a foreign corporation which is not formed or availed of for the principal purpose described in section 4915(c)(1).

(b) *Nature of business activity.* Such corporation must be engaged exclusively in the trade or business of acquiring, servicing, or acquiring and servicing debt obligations described in subdivisions (i) through (vii) of paragraph (c)(2) of this section, or otherwise arising out of sales of tangible personal property, or carrying on other incidental activities in connection with its sales finance business, or any combination of the foregoing.

(c) *Nature of debt obligations.* Except for debt obligations arising out of deposits in commercial banks having at the time of the deposit a period remaining to maturity of less than 1 year, and debt obligations of one or more includible corporations in an affiliated group (as defined in section 48(c)(3)(C)) of which such corporation is a member acquired as payment for stock, or as a contribution to the capital, of such corporation,

(1) All debt obligations owned by such corporation at all times during the taxable year (subsequent to the effective date of the election) must be debt obligations described in subdivisions (i) through (vii) of subparagraph (2) of this paragraph or otherwise arise out of sales of tangible personal property or be debt obligations acquired in carrying on the trade or business described in paragraph (b) of this section; and

(2) At least 90 percent of the face value of the debt obligations owned by such corporation at all times during the taxable year (subsequent to the effective date of the election) must consist of—

(i) Debt obligations arising out of the sale of tangible personal property produced, manufactured, assembled, or extracted by one or more includible corporations in an affiliated group (as defined in section 48(c)(3)(C)) of which such corporation is a member;

(ii) Debt obligations arising out of the sale of tangible personal property received as part or all of the consideration in sales of property described in subdivision (i) of this subparagraph;

(iii) Debt obligations arising out of the sale of tangible personal property received as part or all of the consideration in sales of property described in subdivision (ii) of this subparagraph;

(iv) Debt obligations arising out of the sale or lease of tangible personal property or the performance of services (or both), if not less than 85 percent of the purchase price is attributable to the sale (or not less than 85 percent of the value of the property subject to the lease is attributable to the use) of property manufactured, produced, grown, or extracted in the United States or the performance of services by any U.S. person (or both);

(v) Debt obligations arising out of loans to dealers or distributors primarily engaged in the business of selling property described in subdivisions (i), (ii), and (iii) of this subparagraph, the proceeds of which loans are used by such dealers or distributors in such business;

(vi) Debt obligations arising out of loans to an includible corporation in an affiliated group (as defined in section 48(c)(3)(C)) of which such corporation is a member, if such obligations are secured by debt obligations described in subdivisions (i) through (v) of this subparagraph; or

(vii) Any combination of the foregoing.

(d) *Source of funds.* All debt obligations acquired by such corporation must be acquired solely out of—

(1) The proceeds of the sale (including a sale in a transaction described in section 4919(a)(1)) by such corporation (or by a domestic corporation described in section 4912(b)(3) which owns all of the stock of such corporation) of debt obligations of such corporation (or such other domestic corporation) to persons other than—

(i) A U.S. person (not including a foreign branch of a domestic corporation or of a domestic partnership, if such branch is engaged in the commercial banking business and acquires such debt obligations in the ordinary course of such commercial banking business);

(ii) A foreign partnership in which such corporation (or one or more includible corporations in an affiliated group, as defined in section 1504, of which such corporation is a member) owns directly or indirectly (within the meaning of section 4915(a)(1)) 10 percent or more of the profits interest; or

(iii) A foreign corporation, if such corporation (or one or more includible corporations in an affiliated group, as defined in section 1504, of which such corporation is a member) owns directly or indirectly (within the meaning of section 4915(a)(1)) 10 percent or more of the total combined voting power of all classes of stock of such foreign corporation, except to the extent such foreign corporation has, after having given advance notice of at least 15 days to the district director with whom the notice of election has been filed in accordance with paragraph (f) of this section, sold its debt obligations to persons other than persons described in subdivisions (i) and (ii) and this subdivision and is using the proceeds of the sale of such debt obligations to acquire the debt obligations of such corporation (or such other domestic corporation);

(2) The proceeds of payment for stock, or a contribution to the capital of such corporation, if the payment or contribution was derived from the sale of debt obligations by one or more includible corporations in an affiliated group (as defined in section 48(c)(3)(C)) of which such corporation is a member to persons other than persons described in subdivisions (i), (ii), and (iii) of subparagraph (1) of this paragraph and such debt obligations, if acquired by U.S. persons, would be subject to the tax imposed by section 4911;

(3) Retained earnings and reserves of such corporation; or

(4) Trade accounts and accrued liabilities which are payable by such corporation within 1 year (3 years in the case of tax liabilities) from the date they were incurred or accrued, and which arise in the ordinary course of the trade or business of the corporation otherwise than from borrowing.

Any debt obligation sold for the purpose of obtaining funds, as provided in this paragraph, shall not be convertible into any stock or convertible into any debt obligation of a person described in subdivision (i), (ii), or (iii) of subparagraph (1) of this paragraph. On the face of each document evidencing any debt obligation sold for the purpose of obtaining funds there shall be prominently and clearly marked the following or substantially similar language: "This Debt Obligation Is To Be Treated as the Debt Obligation of a Foreign Obligor for Purposes of the United States Interest Equalization Tax and Its Acquisition by a United States Person Shall Subject Such Person to Tax Liability to the Extent Provided in Chapter 41 of the Internal Revenue Code." Any stock certificate of the electing corporation shall be similarly marked.

(e) *Additional requirement for electing corporations.* Such corporation may not acquire any stock of foreign issuers or of domestic corporations or domestic partnerships other than stock of one or more includible corporations in an affiliated group (as defined in section 48 (c)(3)(C)) of which such corporation is a member acquired as payment for stock, or as a contribution to capital, of such corporation.

(f) *Time and manner of making election*—(1) *In general.* The election under this section shall be made on or before [insert date 30 days after promulgation of T.D.], or the 60th day after the organization of the corporation, whichever is later, by filing a statement of election, together with the information required by subparagraph (2) of this paragraph, with the district director for the district in which is located the principal place of business or principal office of the corporation. Such election shall be effective as of the date on which it is made and shall remain in effect until revoked in accordance with paragraph (h) of this section.

(2) *Information to be furnished with notice of election.* The following information shall be submitted with the statement of election:

(i) The name, address, employer identification number, and principal place of business or principal office of the corporation; and

(ii) The capitalization of the corporation, identifying the shareholders or other persons furnishing capital and indicating the number of shares owned by each shareholder and the amount of other capital (if any) furnished by each person other than a shareholder.

(g) *Recordkeeping requirements.* A domestic corporation making an election under this section shall maintain at its principal place of business or principal office records relating to the acquisition and sale of debt obligations described in paragraphs (c) and (d) of this section and such other records as are necessary to establish that the other requirements set forth in paragraphs (c) and (d) of this section have been satisfied and to substantiate the data required to be furnished under paragraph (f) of this section. Such records shall be readily available for inspection by authorized officers and employees of the Internal Revenue Service.

(i) *Revocation of election*—(1) *In general.* An election made under this section shall be deemed revoked if, at any time, the corporation ceases to meet any requirement prescribed in paragraphs (b) through (f) of this section. When an election is revoked, no further election may be made.

(2) *Effect of revocation.* When an election is revoked, the corporation shall incur liability at the time of such revocation for the tax imposed by section 4911 with respect to all stock or debt obligations which were required by it during the period for which the election was in effect and which are held by it at the time of such revocation. The amount of such tax shall be equal to the amount of tax for which the corporation would be liable under section 4911 if it had acquired such stock or debt obligations immediately after such revocation.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

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

Approved: May 11, 1970.

JOHN S. NOLAN,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 70-5944; Filed, May 14, 1970; 8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER L—SECURITY OF WATERFRONT FACILITIES

[CGFR 70-59]

PART 126—HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES

Handling Dangerous Articles or Substances in Bulk at Designated Waterfront Facilities

Item PH 5-69 of the Merchant Marine Council Public Hearing Agenda dated March 24, 1969 (CG-249) included a proposal to amend 33 CFR 126.27 to clearly indicate its application to dangerous articles shipped in bulk or portable tanks, in addition to shipments in containers or packagings. Notice of the contents of this Agenda was published in the FEDERAL REGISTER of February 7, 1969 (34 F.R. 1831). No comments were received on this proposal and the amendment to § 126.27 was published in the FEDERAL REGISTER of October 29, 1969 (34 F.R. 17478). It is now noted that this recent amendment limits the section to dangerous articles in bulk or portable tanks. This document corrects this error by amending § 126.27 so that it expressly states that it applies to all shipments of dangerous cargoes whether in containers, packagings, bulk, or portable tanks.

Since this is an editorial correction, notice and public procedure are not required and the amendment can be made effective in less than 30 days.

1. Section 126.27 is amended by deleting in the heading the words "in bulk or portable tanks" and by changing in the introductory text the words "or portable tanks" to "portable tanks, containers or packagings". As amended, the heading and introductory text of § 126.27 reads as follows:

§ 126.27 General permit for handling dangerous articles or substances.

A general permit is hereby issued for the handling, storing, stowing, loading, discharging or transporting of dangerous articles or substances (other than designated dangerous cargo) in bulk, portable tanks, containers, or packagings, at designated waterfront facilities, conditioned upon the observance and fulfillment of the following:

* * * * *

(Sec. 1, 40 Stat. 220, as amended, sec. 6(b)(1), 80 Stat. 937; 50 U.S.C. 191, 49 U.S.C. 1655(b)(1); E.O. 10173, 15 F.R. 7005, 3 CFR, 1950 Supp., as amended; 49 CFR 1.46(b))

Effective date. This amendment shall become effective on the date of publication in the FEDERAL REGISTER.

Dated: May 8, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[F.R. Doc. 70-5963; Filed, May 14, 1970; 8:48 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Russell Cave National Monument, Ala.; Caves

A proposal was published at page 12054 of the FEDERAL REGISTER of August 24,

1968, to revise paragraphs (a) (1), (2) and (3) of § 7.68 of Title 36 of the Code of Federal Regulations. The effect of the revision is to clarify the purpose and intent of the regulation with regard to cave exploration.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendments. No comments, suggestions, or objections have been received and the proposed amendments are hereby adopted without change and are set forth below. These amendments shall take effect 30 days following the date of publication in the FEDERAL REGISTER.

Paragraphs (a) (1), (2), and (3) of § 7.68 are amended as follows:

§ 7.68 Russell Cave National Monument.

(a) *Caves*—(1) *Closed Areas.* Entering, exploring, or remaining within any cave area other than the public archeological exhibit without prior written permission of the Superintendent is prohibited.

(2) *Permits.* Permits for entry into other than public exhibit areas of the cave will be issued within limitations of safety provided the applicant satisfies the Superintendent that he has proper equipment for cave exploration, such as lighting equipment, protective headwear, and appropriate shoes or boots. Other reasonable administrative requirements may be imposed by the Superintendent provided reasonable notice of these requirements is given to the applicant.

(3) *Solo Exploration.* Solo exploration is not permitted in the caves other than in the public archeological exhibit areas.

JOHN W. FISHER,
Superintendent,
Russell Cave National Monument.

[F.R. Doc. 70-5998; Filed, May 14, 1970; 8:51 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

Procurement of ADPE

Policy and procedures are provided governing the potential use of the ADP Fund in procuring ADPE and alerting agencies to the provisions of FPMR 101-35 when considering ADPE requirements associated with telecommunications.

The table of contents for Part 101-32 is amended to add the following:

Sec.
101-32.403-4 Automatic Data Processing Fund.

Subpart 101-32.4—Procurement and Contracting

Sections 101-32.400, 101-32.403-1, 101-32.403-3, and 101-32.404 are revised and § 101-32.403-4 is added to read as follows:

§ 101-32.400 Scope of subpart.

This subpart sets forth policies and procedures governing the procurement of all automatic data processing equipment, software, maintenance services, and supplies by Federal agencies. The provisions of Part 101-35 are also applicable to telecommunications directly or indirectly associated with automatic data processing equipment.

§ 101-32.403-1 Automatic data processing equipment.

Except as indicated § 101-32.403-4, agencies may procure ADPE without prior review and approval of GSA when:

(a) The procurement will occur by placing a purchase/delivery order against an applicable Federal Supply Schedule under the terms of the schedule; or

(b) The procurement will fall within the limitations prescribed in the Scope of Contract clause of the Federal Supply Schedule as it relates to the Maximum Order Limitations, but as a result of negotiations with a company having a Federal Supply Schedule contract, a separate contract rather than a general amendment to the Federal Supply Schedule contract is the desired contractual vehicle. Such separate contract, however, must contain some better terms or conditions with all other terms and conditions at least equal to those in the applicable Federal Supply Schedule contract; or

(c) The value of the procurement is within specified dollar limitations or other criteria related to types of equipment as may be determined and announced by GSA.

NOTE: When telecommunications aspects are involved, irrespective of the authority to procure ADPE as indicated in paragraphs (a), (b), or (c), of this section, agencies shall submit appropriate documentation as prescribed in Part 101-35.

§ 101-32.403-3 Maintenance services.

Agencies may procure maintenance services available from a Federal Supply Schedule contract without prior review and approval of GSA. When approved by GSA, the ADP Fund may be used by agencies to obtain maintenance services for ADPE leased from GSA through the ADP Fund.

§ 101-32.403-4 Automatic Data Processing Fund.

(a) When a lease/purchase evaluation indicates that it would be to the best interest of the Government to purchase rather than lease ADPE, and funds are not readily available within the agency, e.g., when there is insufficient time to secure the necessary funds under normal budgetary procedures or to reprogram for the required funds, the matter shall be forwarded to GSA in the manner prescribed in § 101-32.404 for determination as to whether or not the ADP Fund should be used for the purchase. In like manner the use of long-term lease plans should not be discarded solely on the grounds that they are barred by legal or fiscal considerations. Instead, the matter shall be forwarded to GSA for determination as to whether or not the ADP Fund should be used.

(b) When a determination has been made to finance the acquisition of ADPE by means of the ADP Fund, GSA will effect the procurement and retain title to the equipment which will be capitalized into the Fund. In such instances, mutually satisfactory arrangements to reimburse the Fund and a lease to include equipment costs and authorized personnel services and other costs will be negotiated between the requesting agency and GSA. Reimbursements to the Fund are generally on the installment basis; however, lump sum payments may be made.

(c) When GSA determines that the ADP Fund will not be used for procurement of ADPE, agencies may proceed with procurement providing they have the authority to do so under § 101-32.403-1 or have requested and been granted authority as provided in §§ 101-32.404 and 101-32.405.

(d) Agencies with installed leased ADPE shall periodically review the equipment for consideration of purchase by the ADP Fund when purchase becomes justified.

§ 101-32.404 Request for procurement action.

Immediately upon determination that the conditions of the contemplated procurement are not covered by the provisions of § 101-32.403, or where the conditions of the contemplated procurement change at any time during the procurement cycle in such a manner as to remove it from these provisions, appropriate documentation as required by this § 101-32.404 shall be forwarded to the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406. It will be presumed that the policies and guidance stated in applicable Bureau of the Budget directives have been complied with prior to forwarding such documentation to GSA.

NOTE: When telecommunication services are required in conjunction with automatic data processing equipment, communications information required by § 101-35.203(c) (5), (6), (7), and (8) shall be included; if not available at that time, this information shall be submitted subsequently pursuant to Part 101-35.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: May 8, 1970.

JOHN W. CHAPMAN, Jr.,
Acting Administrator
of General Services.

[F.R. Doc. 70-5937; Filed, May 14, 1970; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 70-487]

PART 73—RADIO BROADCAST SERVICES

Noncommercial, Educational FM, and Television Broadcast Service

Memorandum opinion and order. 1. Because the rules relating to financial support of noncommercial educational FM and television stations were adopted at different times and in different language, licensees have experienced difficulties in interpreting them. Moreover, a certain lack of specificity has made it difficult for many educational licensees to know just what types of financial support they could accept, what broadcast acknowledgment of support is permissible and, finally, what identification announcements are required under our sponsorship identification rules.

2. These interpretations of Commission policy and rules present issues of importance, since on the one hand they affect the financial support of educational broadcast stations, and on the other hand they pertain to the public's right to know by whom it is being persuaded. At the same time they affect the essential noncommercial character of these services which permits them to fulfill the unique and important role in our society which they do.

3. Confusion has resulted from differing language in § 73.503(c), which describes noncommercial educational FM service, and § 73.621(e) which describes noncommercial educational television service. Although the language of the FM section is more sweeping, it makes no reference to a station's responsibilities for sponsorship identification. At the same time the FM rule is more permissive with regard to the furnishing of program material and the payment of line charges than is the television rule (which permits payment of line charges only by another station or network).

4. There was never any intent to exempt noncommercial educational FM broadcast stations from the provisions of section 317 of the Communications Act to the extent that they would be applicable to a noncommercial service, such as with regard to the furnishing of program materials or the payment of line charges. At the same time, for the sake of clarity and efficient administration, the noncommercial educational character of the two services should be described in the same way in both rules; and there is no reason why the payment of line charges should not be permitted in the case of noncommercial educational television stations to the same extent permitted in the case of noncommercial FM broadcast stations.

5. In addition, experience has demonstrated the need for interpretive language which will give guidance to noncommercial educational licensees in their determination of the types of language permitted as acknowledgement of a donation of programing materials or costs, and, conversely, what language is required for the proper identification of one who has made such a donation. Similar guidance is needed in the matter of the frequency of such announcements. Finally, we believe that we are called upon to clarify and interpret the provisions which permit the furnishing of programs or programs costs. The question has been raised as to whether such costs should include not only those involved in the actual production of a program, but in addition a proportionate share of the operating expenses of the station which are required in order to make the program available to the public on their receiving sets. We believe that they should, and that the rule should be amended to make this clear.

6. We are amending the provisions of § 73.503, which describe and delimit the nature of the noncommercial educational FM broadcast service, to conform to the like provisions of § 73.621 relating to noncommercial educational television stations. At the same time we are amending both sections so as to clarify the requirements of sponsorship identification, acknowledgement of donations and the frequency of such announcements, and so as to provide for the inclusion of station operating costs within the permissible underwriting program costs which may be donated to a noncommercial educational station.

7. Authority for the adoption of the amendments herein adopted is contained in sections 4(i), 303 (a), (b), and (r), and 317 of the Communications Act of 1934 as amended.

8. The changes in the rules adopted herein are largely clarifying, editorial and interpretive in nature; the effect, insofar as the substance of the rule is changed, is chiefly to relax existing restrictions on the acceptance of contributions and (in television) payment of line charges. Insofar as the new rule concerning educational FM stations may appear to impose a new requirement of announcements as to the furnishing of programs by others, it represents what the intent of the Commission's rules has been, and simply imposes on these stations the same requirements which have long been applicable to commercial stations. Accordingly, we find that the public proceedings normally required by the Administrative Procedure Act (5 U.S.C. sec. 553 (a) and (b)) are unnecessary.

9. In view of the foregoing: *It is ordered*, That effective June 17, 1970, §§ 73.503 and 73.621 of the Commission's rules and regulations are amended, as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: May 6, 1970.

Released: May 11, 1970.

FEDERAL COMMUNICATIONS COMMISSION [1]

[SEAL] BEN F. WAPLE, *Secretary.*

[1] Commissioner Bartley dissenting and issuing a statement which is filed as part of the original document; Commissioner Robert E. Lee absent; Commissioner Johnson concurring in the result.

1. In § 73.503, paragraph (c) is amended and paragraph (d) is added to read as follows:

§ 73.503 Licensing requirements and service.

* * * * *

(c) A noncommercial educational FM broadcast station may broadcast programs produced by, or at the expense of, or furnished by persons other than the licensee, if no other consideration than the furnishing of the program and the costs incidental to its production and broadcast are received by the licensee. The payment of line charges by another station, network, or someone other than the licensee of a noncommercial educational FM broadcast station, or general contributions to the operating costs of a station, shall not be considered as being prohibited by this paragraph.

(d) Each station shall furnish a nonprofit and noncommercial broadcast service. Noncommercial educational FM broadcast stations are subject to the provisions of § 73.289 to the extent that they are applicable to the broadcast of programs produced by, or at the expense of, or furnished by others; however, no announcements promoting the sale of a product or service shall be broadcast in connection with any program.

NOTE 1: Announcements of the producing or furnishing of programs or the provision of funds for their production may be made no more than twice, at the opening and at the close of any program. The person or organization furnishing or producing the program shall be identified by name only, and no mention shall be made of any product or service with which it may have a connection.

NOTE 2: Announcements of general contributions of a substantial nature which make possible the broadcast of programs for part, or all, of the day's schedule may be made no more than three times during the broadcast day.

2. In § 73.621, paragraphs (d) and (e) are amended to read as follows:

§ 73.621 Noncommercial educational stations.

* * * * *

(d) A noncommercial educational television station may broadcast programs produced by or at the expense of, or furnished by persons other than the licensee, if no other consideration than the furnishing of the program and the costs incidental to its production and broadcast are received by the licensee. The payment of line charges by another station, network, or someone other than the licensee of a noncommercial educational television station, or general contributions to the operating costs of a station, shall not be considered as being prohibited by this paragraph.

(e) Each station shall furnish a nonprofit and noncommercial broadcast service. However, noncommercial educational television stations shall be subject to the provisions of § 73.654 to the extent that they are applicable to the broadcast of programs produced by, or at the expense of, or furnished by others, except that no announcements (visual or aural) promoting the sale of a product or service shall be broadcast in connection with any program: *Provided, however,* That

where a sponsor's name or product appears on the visual image during the course of a simultaneous or rebroadcast program either on the backdrop or in similar form, the portions of the program showing such information need not be deleted.

NOTE 1: Announcements of the furnishing or producing of programs may be made no more than twice, at the opening and at the close of any program. The person or organization furnishing or producing the program shall be identified by name only, and no mention shall be made of any product or service with which it may have a connection.

NOTE 2: Announcements of general contributions of a substantial nature which make possible the broadcast of programs for part, or all, of the day's schedule may be made no more than three times during the broadcast day.

[F.R. Doc. 70-5984; Filed, May 14, 1970; 8:50 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. MC-79]

PART 1134—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS AND THEIR PROPERTIES

Control of Duplicate Operating Rights

At a Session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 4th day of May 1970.

It appearing, that the Commission, Division 3, by order dated October 7, 1969, instituted this rulemaking proceeding under authority of 5 U.S.C. 553 and 559 (the Administrative Procedure Act) and 49 U.S.C. 5 (the Interstate Commerce Act) to determine whether the proposed regulation, described in that notice, which is designed to set forth policy and rules respecting the elimination of duplicate operating rights under common control, should be adopted;

It further appearing, that the notice of this proposed rulemaking invited the representations of all interested parties setting forth their views with regard to the proposed rule; and that notice to all interested parties was given through publication of said notice in the FEDERAL REGISTER of October 18, 1969 (34 F.R. 17037); and

It further appearing, that various parties submitted their views and suggestions regarding the proposed rule, and the Commission, Division 3, has considered such representations and, on the date hereof, has made and filed its report setting forth its conclusions and findings and its reasons therefor, which report is hereby referred to and made a part hereof:

It is ordered, That Part 1134 of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding a new § 1134.51, reading as follows:

§ 1134.51 Control of duplicate operating rights.

(a) All applications under section 5 of the Interstate Commerce Act which would result in the control or management in a common interest of two or more motor carriers must, as a condition precedent to approval, comply with one or more of the following conditions where unqualified approval would result in the holding of duplicate operating rights by any one or more of the carriers presently controlled and the carrier or carriers sought to be controlled, or by any two or more carriers sought to be contolled:

(1) One or more of the carriers holding duplicating authority shall request cancellation to the extent required to terminate all duplications, specifying the particular operating rights to be canceled, so that only one of them shall retain authority to operate over the same route or to render the same service between the same points;

(2) The applicant for control shall submit a plan and timetable to eliminate the duplications at the earliest practicable date so that only one of the carriers to be thereafter controlled will hold authority to operate over the same route or to render service between the same points;

(3) If cogent and acceptable reasons exist why duplicate operating rights under common control should be permitted to continue, then the certificates of the carriers holding duplicating authority shall be appropriately conditioned to provide that the operating rights, to the extent they duplicate, may not be thereafter severed from common ownership by sale or otherwise.

(b) Applicants in such applications shall be responsible for specifying the particular condition or conditions in paragraph (a) of this section which are preferable to them, but such statement of preference shall not preclude the Commission from imposing a different condition or conditions should the situation warrant. If applicant indicates a preference for any condition other than paragraph (a)(1) of this section, then the facts and circumstances relied upon to warrant approval under such conditions must be stated with particularity in the application.

(c) Where an applicant is permitted to continue the conduct of duplicate operations under common control pursuant to a plan as provided in paragraph (a)(2) of this section, approval thereof will be conditioned upon the reporting by applicant at intervals of no more than six (6) months of the need for continuation of and the developments in its approved plan to end such common control of duplicating operating rights; and approval shall be further conditioned to provide a reservation of jurisdiction in the Commission for a reasonable period to reopen at any time for the purpose of ordering an end to the duplication by cancellation, merger, or otherwise.

It is further ordered, That this order shall become effective 35 days from the date it is served.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6011; Filed, May 14, 1970; 8:52 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that the position of Administrator, Health Services and Mental Health Administration is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (6) is added to paragraph (h) of § 213.3316 as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(h) *Office of the Assistant Secretary for Health and Scientific Affairs.* * * *

(6) Administrator, Health Services and Mental Health Administration.

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[F.R. Doc. 70-6108; Filed, May 14, 1970; 8:52 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Alaska	Fairbanks North Star Borough.	North Pole	E 02 039 1895 01.	Alaska Department of Natural Resources, Juneau, Alaska 99801. Director of Insurance, State of Alaska, Pouch D, Juneau, Alaska 99801.	Fairbanks North Star, Borough Planning Division, Post Office Box 1267, Fairbanks, Alaska 99708.	May 15, 1970.
Florida	Pinellas	Redington Beach.	E 12 103 2650 01.	Department of Community Affairs, 225 West Jefferson Street, Tallahassee, Fla. 32303. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, Fla. 32303.	Town Hall, 105 164th Avenue, Redington Beach, St. Petersburg, Fla. 33708.	Do.
Iowa	Dubuque	Dubuque	E 19 061 2430 01. E 19 061 2430 02.	Iowa Natural Resources Council, Grimes Building, Des Moines, Iowa 50319. Commissioner of Insurance, State of Iowa, Lucas State Office Building, Des Moines, Iowa 50319.	City Engineering Department, City Hall, Dubuque, Iowa 52001.	Do.
New Jersey	Atlantic	Brigantine	E 34 001 0440 01.	Department of Conservation and Economic Development, Box 1390, Trenton, N.J. 08625. Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	Office of the City Clerk, 1417 West Brigantine Avenue, Brigantine, N.J. 08203.	Do.
Rhode Island	Bristol	Barrington	E 44 001 0013 01.	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Department, Room 415, 49 Westminster Street, Providence, R.I. 02903.	Town Hall, 283 County Road, Barrington, R. I. 02806.	Do.
Tennessee	Roane	Rockwood	E 47 145 2009 01.	Office of Federal and Urban Affairs, 321 7th Avenue North, Nashville, Tenn. 37219. Tennessee State Planning Commission, Room C2-208, Central Services Building, Nashville, Tenn. 37219. State Insurance Commission, R-114, State Office Building, Nashville, Tenn. 37219.	City Hall, 306 West Rockwood Street, Rockwood, Tenn. 37854. Tennessee State Planning Commission, Upper East Tennessee Office, 323 West Walnut Street, Johnson City, Tenn. 37601.	Do. Do.
Texas	Galveston	Dickinson	E 48 167 1920 01. E 48 167 1920 02.	Texas Water Development Board, 301 West Second Street, Austin, Tex. 78711. State Board of Insurance, 11th and San Jacinto, Austin, Tex. 78701.	Office of the County Clerk, Galveston County Court House, Galveston, Tex. 77550.	Do.
Virginia	City of Portsmouth.	.....	E 51 740 1970 01. E 51 740 1970 02. E 51 740 1970 03. E 51 740 1970 04. E 51 740 1970 05. E 51 740 1970 06. E 51 740 1970 07. E 51 740 1970 08.	Division of Water Resources, Seventh Floor, 911 East Broad Street, Richmond, Va. 23219. Commissioner of Insurance, State Corporation Commission, Richmond, Va. 23209.	City Planning Commission, Municipal Building, Third Floor, No. 1 High Street, Portsmouth, Va. 23704.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968) effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Effective date: May 15, 1970.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70-5989; Filed, May 14, 1970; 8:50 a.m.]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Alaska	Fairbanks North Star Borough.	North Pole	H 02 039 1895 01.	Alaska Department of Natural Resources, Juneau, Alaska 99801. Director of Insurance, State of Alaska, Pouch D, Juneau, Alaska 99801.	Fairbanks North Star Borough Planning Division, Post Office Box 1267, Fairbanks, Alaska 99701.	May 15, 1970.
Florida	Pinellas	Redington Beach.	H 12 103 2650 01.	Department of Community Affairs, 225 West Jefferson Street, Tallahassee, Fla. 32303. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, Fla. 32303.	Town Hall, 105 164th Avenue, Redington Beach, St. Petersburg, Fla. 33708.	Do.
Iowa	Dubuque	Dubuque	H 19 061 2430 01. H 19 061 2430 02.	Iowa Natural Resources Council, Grimes Building, Des Moines, Iowa 50319. Commissioner of Insurance, State of Iowa, Lucas State Office Building, Des Moines, Iowa 50319.	City Engineering Department, City Hall, Dubuque, Iowa 52001.	Do.
New Jersey	Atlantic	Brigantine	H 34 001 0440 01.	Department of Conservation and Economic Development, Box 1390, Trenton, N.J. 08625. Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	Office of the City Clerk, 1417 West Brigantine Avenue, Brigantine, N.J. 08203.	Do.
Rhode Island	Bristol	Barrington	H 44 001 0013 01.	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Department, Room 415, 49 Westminister St., Providence, R.I. 02903.	Town Hall, 283 County Rd, Barrington, R. I. 02806.	May 15, 1970.
Tennessee	Roane	Rockwood	H 47 145 2070 01.	Office of Federal and Urban Affairs, 321 7th Ave. North, Nashville, Tenn. 37219.	City Hall, 306 West Rockwood St., Rockwood, Tenn. 37854.	Do.
				Tennessee State Planning Commission, Room C2-308, Central Services Building, Nashville, Tenn. 37219.	Tennessee State Planning Commission, Upper East Tennessee Office, 323 W. Walnut St., Johnson City, Tenn. 37601.	Do.
				State Insurance Commission, R-114, State Office Building, Nashville, Tenn. 37219.		
Texas	Galveston	Dickinson	H 48 167 1930 01.	Texas Water Development Board, 301 W. 2nd St., Austin, Tex. 78711.	Office of the County Clerk, Galveston County Court House, Galveston, Tex. 77550.	Do.
				State Board of Insurance, 11th and San Jacinto, Austin, Tex. 78701.		
Virginia	City of Portsmouth.		H 51 740 1970 01. H 51 740 1970 02. H 51 740 1970 03. H 51 740 1970 04. H 51 740 1970 05. H 51 740 1970 06. H 51 740 1970 07. H 51 740 1970 08.	Division of Water Resources, Seventh Floor, 911 East Broad Street, Richmond, Va. 23704. Commissioner of Insurance, State Corporation Commission, Richmond, Va. 23209.	City Planning Commission, Municipal Building, Third Floor, No. 1 High Street, Portsmouth, Va. 23704.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Effective date: May 15, 1970.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70-5990; Filed, May 14, 1970; 8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER I—MILITARY PERSONNEL

PART 888c—CAREER RESERVE STATUS FOR RESERVE OFFICERS AND ACTIVE DUTY SERVICE COMMITMENTS

Miscellaneous Amendments

Part 888c of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Section 888c.8 is amended by revising paragraphs (c) and (d) and adding a new paragraph (e) to read as follows:

§ 888c.8 General.

* * * * *

(c) Chaplains, legal officers, and officers of the Medical, Dental, Veterinary, Nurse, Medical Service, or Biomedical Sciences Corps, applying for CRS must be qualified for an Air Force commission and be certified as prescribed in AFM 160–1 (Medical Examinations and Medical Standards). Line officers will have their medical qualifications determined according to the following procedures:

(1) Applicant will accomplish Part I of the Medical Certificate contained in paragraph (e) of this section and deliver it to the examining physician. The physician will review the applicant's medical records and, if appropriate, accomplish Part II certifying that the applicant is qualified for unrestricted worldwide service according to AFM 35–4 (Physical Evaluation for Retention, Retirement and Separation).

(2) If the physician determines that a medical examination is required, he will accomplish Part III of the certificate and proceed with the examination in accordance with AFM 160–1.

(3) Two copies of the certificate will accompany the application for CRS.

(d) Applicant will not perform travel incident to separation or be released from AD before his application for CRS has received action by the approval/disapproval authority. When final approval/disapproval action is not received before the DOS, the CBPO will input G Format PTI 438 (not eligible to separate) indicating an estimated date of separation.

(e) Medical certificate for CRS reads as follows:

MEDICAL CERTIFICATE FOR CAREER RESERVE STATUS

PART I

I certify that there (has) (has not) been a change in my general health since my last physical examination. I further certify that I (am) (am not) currently physically qualified for general service and that I (am) (am not) serving in limited assignment status and/or under a medical restriction.

(Signature)
Name, Grade, SSAN, and Date.

PART II

I certify that I have reviewed the medical records on (name of applicant) and that he is qualified for unrestricted worldwide service according to AFM 35–4 (Physical Evaluation for Retention, Retirement and Separation).

(Signature)
Name, Grade, Medical Facility and Address, and Date.

PART III

I have reviewed the medical records on (name of applicant) and have determined that prior to medical certification for Career Reserve Status, medical examination will be required.

(Signature)
Name, Grade, Medical Facility and Address, and Date.

(Note to examining physician: This officer is applying for Career Reserve Status and is not required to undergo a medical examination unless you determine after reviewing his medical records that there is some question as to his qualification for unrestricted worldwide assignment.)

2. Section 888c.10 is amended by revising paragraphs (b) and (c) to read as follows:

§ 888c.10 Ineligible applicant.

* * * * *

(b) An officer whose application for CRS has been disapproved may not reapply within the 1-year period after the date of his initial application.

(c) An officer whose application for CRS has been disapproved on the basis of a disqualifying medical factor may not reapply until he is found medically qualified in accordance with AFM 160–1.

3. Section 888c.16 is revised to read as follows:

§ 888c.16 Separation after approval.

Approval of CRS does not prevent earlier separation when required by law or policy. Minimum service commitment after approval of CRS is as prescribed in §§ 888c.30 and 888c.46.

4. Section 888c.22 is revised to read as follows:

§ 888c.22 Award of DOS.

Rule	A	B
	If no other ADSC exceeds desired date and officer is—	Then DOS must be—
1	Serving accompanied by dependents overseas tour (Note).	Tour completion date; tour length plus approved extension; or Net 12 months after DEROS.
2	Serving oversea tour other than in Rule 1 (Note). See § 888c.34.	Date 12 months of tour will be completed; between 12 months and tour completion date; tour length plus approved extension; or Net 12 months after tour completion date.
3	Serving a CONUS stabilized tour (AFM 36-11) (Note).	

NOTE: Approved tour extension according to AFM 36-11 is precedent to MAJCOM established DOS based on cancellation of CRS.

5. Section 888c.28 is revised to read as follows:

§ 888c.28 ADSC from accepting Regular Air Force commission.

Rule	A	B	C
	If officer is—	Then ADSC is—	
1	USAFA graduate (Note) USNA graduate, or USMA graduate.	Class of 59, 60, 61	3 years.
2		Class of 62, 63, 64, 65, 66, 67	4 years.
31		Class of 68 and thereafter	5 years.
4	Appointed from AFROTC; civilian or non-EAD Reserve dentists.	FY 67 regular Air Force appointment program and before.	4 years.
5		FY 68 regular Air Force appointment program and thereafter.	5 years.
6	Appointed to regular Air Forces on AD.	FY 67 regular Air Force appointment program and before.	4 years on current tour including 1 year of service after acceptance.
7		FY 68 regular Air Force appointment program and thereafter.	5 years on current tour, including 1 year of service after acceptance.
8	An interservice transfer		4 years.

NOTE: ADSC duration is incorporated within statements of understanding executed as cadets at USAFA.

6. Section 888c.32 is amended by revising paragraphs (a)(4) and (f)(4) to read as follows:

§ 888c.32 Training ADSC.

(a) *Flying training.* * * *

(4) Because of unique Air Force requirements, it may be necessary to direct training for requalification or special crew qualification training in an aircraft in which an officer previously received formal training. ADSC will be incurred for the supplementary training only if it results in upgrade of crew qualification. (Exception: Officers who attend B–52/KC–135 CCTS for a second time upon returning from SEA will not receive an additional ADSC.)

* * * * *

(f) *Elimination from training.* * * *

(4) An officer eliminated from AFIT progressional education or training with industry program, scholarship, fellowship, or grant incurs an ADSC from § 888c.40, based on the length of training received, rather than from § 888c.44.

7. Section 888c.34 is amended by revising paragraphs (b) and (c) to read as follows:

§ 888c.34 Permanent change of station (PCS).

* * * * *

(b) An officer assigned to an oversea area who is serving an Accompanied by Dependents tour because his dependents accompanied or joined him has an ADSC equal to the prescribed tour in AFM 36–11. ADSC accrues from the date departed the CONUS.

(c) An officer assigned to an oversea area who is serving a tour other than in the status outlined in paragraph (b) of this section, has an ADSC of 1 year. ADSC accrues from the date departed the CONUS. Exceptions:

(1) This ADSC is reduced for an officer who returns from SEA in less than 1 year due to completion of tour.

(2) ADSC is incurred for PCS within or between oversea theaters. ADSC accrues from date departed last duty station. However, ADSC does not extend DEROS established pursuant to AFM 36–11.

* * * * *

8. Section 888c.38 is amended by revising "Notes" immediately following chart to read as follows:

§ 888c.38 ADSC for flying training.

* * * * *

NOTES: 1. The majority of officers who enter training on/after Jan. 1, 1970, will have previously executed AF Forms 56, 1056, etc., or statements reflecting the 5-year ADSC. It is anticipated that some officers entering will have executed agreements indicating a 4-year ADSC. This group will be comprised of certain AFROTC officers who negotiated contracts before announcement of the increased ADSC, AFROTC officers who are delayed due to approved educational deferments, and USAFA graduates of Class 1969 who participate in the Cooperative Masters graduate program. The 4-year ADSC will apply for all these categories, even though entry is on/after Jan. 1, 1970.

2. All training received in the type aircraft, flying training course(s), or for the duty assignment(s) listed below will result in a 1-year ADSC, regardless of the length of training. The 1-year ADSC will be considered satisfied upon completion of a tour in SEA, if such occurs before 1 year:

a. ALO/FAC; b. USAF Special Fighter Training Course (F–105), Course No. 111506G; c. A–1; d. A–26; e. C–7A; C–47; g. C–123; h. O–1; i. O–2; j. OV–10; k. SAW Training Course, T–28 Pilot No. 111103Z; l. U–6; m. U–10; n. A–37; o. AC–119G/K.

3. UHT graduates who attend the T–38 phase of UPT for the purpose of qualifying for fixed wing pilot duty do not incur any ADSC as a result of this special training.

9. Section 888c.40 is amended by changing the first entry in Column A to read: "AFIT professional education or training with industry including USAFA Special Masters Program but not special short courses"; the seventh, eighth, and 15th entries under Column D are changed to read: "3 times length of training period"; Rules 26 through 32 and notes are revised and new entries 33 and 34 are added to read as follows:

§ 888c.40 AFIT, service schools, technical, or other training ADSC.

Rule	A If training is—	B And was entered—	C For a period of—	D Then ADSC is (note 1)—	E And is served—
26	Sq Officer School, Academic Instructor School (AU), or comparable schools of other forces or nations.			1 year	
27	Technical training including.		Less than 20 weeks	6 times length of training period.	
28			20 or more weeks but less than 12 months.	3 years	
29			12 or more months but less than 24 months.	4 years	
30			24 or more months	4 years, plus 2 months for each additional/fraction month.	
31	Off-duty proficiency Education and Training Program conducted by MAJCOM.	On/after Apr. 3, 64		1 year after completion of the course.	
32	AFIT follow-on for Warren Minuteman Education Program.			2 years	Consecutively with existing ADSC.
33	AFIT follow-on for Malmstrom Minuteman Education Program.		1 to 3 academic quarters. 4 or more academic quarters.	2 years 3 times length of training period.	
34	Education leading to DVM degree, Regular or Reserve.			3 times length of course.	Consecutively with existing ADSC.

NOTES: 1. If ADSC computed is less than 61 days, no fulfillment is required. If ADSC computed is 61 or more days but less than 181 days, a 6-month ADSC applies.

2. The period of legal education cannot be used to satisfy previously incurred ADSC.

3. Total OBR and OZR training time counts in determining an ADSC, regardless of whether training is received at one or more technical training centers.

4. Formalized by USAF/NASA Memoranda of Agreement, July 15, 1965, and October 5, 1967.

5. Includes Minuteman Education Programs attended by non-LCO enrollees on a space available basis.

6. Excludes occupational therapists, physical therapists, dietitians, and nurses trained under Part 905 of this title.

10. Section 888c.42 is amended by revising Rules 1, 2, and notes to read as follows:

§ 888c.42 Physician or dentist training ADSC.

Rule	A If training is—	B And was entered—	C For a period of—	D Then ADSC is (note 1)—	E And is served—
1	Education leading to MD or DDS degree, Regular or Reserve off (AFRs 36-13 or 36-25).			3 times length of course after completing internship (Note 1) or day following graduation from dental school if not enrolled in Dental Intern Program.	Concurrently with existing ADSC.
2	Senior medical student program.			3 years (2 yrs ADSC for commissioning plus 1 yr ADSC for trng).	After completion of internship (Notes 5 and 7).

NOTES: 1. Periods of duty performed at military locations are not included in the computation.

2. Fulfillment of ADSC previously incurred is suspended during attendance, except for officers trained under AFR 36–13 or 36–25.

3. Required training in a civilian institution is considered continuation of military residency.

4. Officers trained under AFR 36–13 or 36–25 will serve their ADSC for residency concurrently with existing ADSC.

5. The ADSC expires June 30th of the third year after completion of internship for all noncareer officers entering military internship training during July.

6. Postgraduate, fellowship, or professional education entered directly from a residency

program will be considered a continuation of the original program. If the advanced program is entered following a break in training, it will be considered a new program for purposes of computing ADSC.

7. If he undergoes AF-sponsored residency training, time in duty status after internship and time in residency training will count toward fulfillment of the 2 years ADSC. The 1 year ADSC will be served after completion of residency training.

§ 888c.44 [Amended]

11. Section 888c.44 is amended by changing the entry in Column A, Rules 11 and 12 from "Medical education leading to MD degree" to "Medical education leading to MD, DDS, or DVM degree."

12. Section 888c.54 is revised to read as follows:

§ 888c.54 Continuation pay.

(a) A medical officer who is awarded continuation pay under AFR 36–8 incurs a 1-year ADSC for each year he agrees to remain on active duty. The effective date of ADSC is the date he signs the agreement or the effective date of his eligibility for continuation pay, whichever is later.

(b) The ADSC incurred by a Medical Corps officer as a result of residency or professional education and training (see Rules 5 through 10, § 888c.42) shall be initially extended by 1 year when the officer agrees to participate in the continuation pay program and signs a statement under the provisions of paragraph 6c, AFR 36–8. No more than 1 year will be added to the existing ADSC under this rule. This new ADSC will not change until officer satisfies the entire period of the new ADSC by executing consecutive active duty statements under AFR 36–8. After the officer satisfies the entire period of the new ADSC, subsequent ADSCs will be computed in accordance with paragraph (a) of this section.

(c) Any questions regarding computation of active duty service commitment for the program should be referred to USAFMPC (AFMSMA), Randolph AFB TX 78148.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, except as otherwise noted)

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 70-5958; Filed, May 14, 1970; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Office of the Secretary

[31 CFR Part 10]

PRACTICE BEFORE INTERNAL REVENUE SERVICE

Miscellaneous Amendments

Notice is hereby given that the Treasury Department proposes to amend Part 10 of Subtitle A of Title 31 of the Code of Federal Regulations (Treasury Department Circular No. 230), concerning practice before the Internal Revenue Service. The proposed amendments are intended primarily to clarify the language of certain provisions of the regulations, strengthen certain conflict of interest and disciplinary provisions, and update statutory references. The proposed amendments are set forth below in tentative form:

1. The authority paragraph following the table of contents is amended to read as follows:

AUTHORITY: The provisions of this Part 10 issued under R.S. 161, sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 et seq.; 5 U.S.C. 301, 500, 551–559, 31 U.S.C. 1026, Reorg. Plan No. 26 of 1950, 15 F.R. 4935, 64 Stat. 1280, 3 CFR, 1949–1953 Comp., except as otherwise noted.

2. Paragraph (e) of § 10.3 is amended by adding to the end thereof the following sentence: "Nothing herein shall be construed as prohibiting an officer or employee of the United States as aforesaid, who is otherwise eligible to practice under the provisions of this part, from representing others before the Internal Revenue Service when doing so in the proper discharge of his official duties."

3. Subdivision (ii) of paragraph (b)(3) of § 10.4 is revised to read as follows:

(ii) Application for enrollment on account of employment in the Internal Revenue Service must be made within 3 years from the date of separation from such employment.

4. Section 10.6 is amended by deleting from the second sentence of paragraph (c) "and there shall be annexed thereto the outstanding enrollment card".

5. Paragraph (a)(7) of § 10.7 is amended by deleting "Any person" at the beginning of the paragraph and inserting in lieu thereof "Any individual".

6. Section 10.21 is revised to read as follows:

§ 10.21 Knowledge of client's omission.

Each attorney, certified public accountant, or enrolled agent who, having been retained by a client with respect to a matter administered by the Internal Revenue Service, knows that the client has not complied with the revenue laws of the United States or has made an error in or omission from any return, document, affidavit, or other paper which the client is required by law to execute in connection with such matter, shall advise the client promptly of the fact of such noncompliance, error, or omission.

7. Section 10.22 is amended by inserting "oral or written" before "representations" both places in which it occurs. As amended, § 10.22 reads as follows:

§ 10.22 Diligence as to accuracy.

Each attorney, certified public accountant, or enrolled agent shall exercise due diligence in preparing or assisting in the preparation of, approving, and filing returns, documents, affidavits, and other papers relating to Internal Revenue Service matters, in determining the correctness of oral or written representations made by him to the Internal Revenue Service, and in determining the correctness of oral or written representations made by him to clients with reference to any matter administered by the Internal Revenue Service.

8. In § 10.24, the heading is amended and a new paragraph (c) is added to read as follows:

§ 10.24 Assistance from disbarred or suspended persons and former Internal Revenue Service employees.

* * * * *

(c) Accept assistance in a specific matter from any person who participated personally and substantially in such matter as an Internal Revenue Service officer or employee.

9. Section 10.25 is amended by deleting "(18 U.S.C. 207(c))."

10. Section 10.26 is amended by deleting "See 18 U.S.C. 207(a)." from paragraph (b); by deleting "See 18 U.S.C. 207(b)." from paragraph (c); and by adding at the end thereof a new paragraph (d) to read as follows:

(d) *Aid or assistance.* No former officer or employee of the Internal Revenue Service, who is eligible to practice before the Service, shall aid or assist any person in the representation of a specific party or parties in any matter in which the former officer or employee participated personally and substantially as an officer or employee of the Internal Revenue Service.

11. Section 10.30 is revised to read as follows:

§ 10.30 Solicitation.

No attorney, certified public accountant, or enrolled agent shall solicit employment, directly or indirectly, in matters related to the Internal Revenue Service. For the purposes of this section, solicitation includes, but is not limited to the advertising of professional attainments or services, the employment of, or the forming of an association or partnership with, any person, partnership, corporation or other organization which solicits in a manner prohibited to attorneys, certified public accountants, and enrolled agents by the provisions of this part, or the use of signs, printing, or other written matter indicating some past or present connection with, or relationship to, the Internal Revenue Service. In the case of an enrolled agent, the phrase "enrolled to practice before the Internal Revenue Service," when appearing on the stationery, letterhead or professional card of such enrolled agent, is not considered to violate this prohibition. The customary biographical insertions in approved law lists and in reputable professional directories and journals, as well as the use of professional cards and announcements, are permissible providing that they do not violate the standards of ethical conduct adopted by the American Bar Association, the American Institute of Certified Public Accountants, and the National Society of Public Accountants.

12. Section 10.50 is amended by deleting "(5 U.S.C. 261)" and by inserting in lieu thereof "(31 U.S.C. 1026)".

13. Paragraph (c) of § 10.51 is revised to read as follows:

(c) Solicitation of employment as prohibited under § 10.30 of this part, the use of false or misleading representations with intent to deceive a client or a prospective client in order to procure employment, or intimating that the practitioner is able improperly to obtain special consideration or action from the Internal Revenue Service or officer or employee thereof.

14. Paragraph (g) of § 10.51 is amended by changing the period to a comma, by deleting "or" where it last appears, and by adding to the end thereof "or by any Federal Court of record."

15. Paragraph (b) of § 10.55 is amended by inserting "offer his" after "may" in the first sentence; and by deleting "given" in the last sentence and inserting "offered" in lieu thereof. As amended, paragraph (b) reads as follows:

(b) *Resignation or voluntary suspension.* An attorney, certified public accountant, or enrolled agent, in order to avoid the institution or conclusion of a disbarment or suspension proceeding, may offer his consent to suspension from practice before the Internal Revenue Service. An enrolled agent may also offer his resignation. The Director of Practice, in his discretion, may accept the offered resignation of an enrolled agent and may suspend an attorney, certified public accountant, or enrolled agent in accordance with the consent offered.

16. Paragraph (c) of § 10.66 is amended by inserting "and the Office of Director of Practice" after "Internal Revenue Service" in the first sentence; and by inserting "or the Treasury Department, as the case may be" before the period at

the end of the last sentence. As amended, paragraph (c) reads as follows:

(c) *Proof of documents.* Official documents, records, and papers of the Internal Revenue Service and the Office of Director of Practice shall be admissible in evidence without the production of an officer or employee to authenticate them. Any such documents, records, and papers may be evidenced by a copy attested or identified by an officer or employee of the Internal Revenue Service or the Treasury Department, as the case may be.

17. The first sentence of § 10.75 is amended by deleting "2" and by inserting in lieu thereof "5".

Consideration will be given to any relevant data, views, or comments pertaining to the proposed amendments which are submitted by interested persons within 30 days of the publication of this notice in the FEDERAL REGISTER. Such submissions should be made in writing in duplicate to the General Counsel, Treasury Department, Washington, D.C. 20220.

[SEAL] ROY T. ENGLERT,
Acting General Counsel.

[F.R. Doc. 70-5945; Filed, May 14, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1007]

[Docket No. AO-366-A4]

MILK IN GEORGIA MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Georgia marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and opportunity to file exceptions thereto are issued 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).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Atlanta, Ga., on March 11, 1970, pursuant to notice thereof which was issued February 28, 1970 (35 F.R. 3915).

The material issues on the record of the hearing relate to:

1. Extending the present Class I price beyond the termination date of March 31, 1970, provided in the present order; and

2. Dividing the Southern Zone of the marketing area into two new zones to be designated the "Central Zone" and the "Southern Zone," and providing a location differential of plus 15 cents to be applicable to both the Class I and uniform prices at plants in the newly designated Southern Zone.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The Class I price level should be extended indefinitely with the same zone differentials over the basic formula price as exist in the present order.

When the order was promulgated, the Class I price was made effective for only 12 months. This was done to insure a review of the price level after the first year's operation of the order to determine whether such price properly reflected existing marketing conditions. To provide for continued operation of the order pending the review of the record evidence and the issuance of a decision thereof, the Assistant Secretary, on March 26, 1970, suspended the March 31, 1970, termination date.

Proponent cooperatives requested that the Class I price in the Northern Zone be maintained at its present level. Currently, the Class I price in the Northern Zone is the same as the Class I price level in the Chattanooga market.

The cooperatives further proposed dividing the present Southern Zone into two parts, a Central Zone and a Southern Zone. The Central Zone would be the area with the major population centers of the State. The proposed Class I price would be maintained at the level of the present Southern Zone which is 15 cents higher than the Northern Zone Class I price. A Class I price, 15 cents higher than the Central Zone price, was proposed by the cooperatives for the new Southern Zone.

The reasons given for these price levels by the proponents were: Proper alignment with the Chattanooga and Upper Florida markets; the cost of alternative supplies from the Chicago, Ill., area; and their contention present price levels in the order are not inducing an adequate supply of milk for the market.

The largest proprietary handlers operating three pool plants in the marketing area testified that no change should be made in the present Class I price level. This handler stated, on the basis of historical pricing in the State, that only one level of Class I prices is needed statewide. In his judgment, a statewide price at the present Southern Zone price would, on the basis of the past 12 months' production and sales figures, produce an adequate supply of milk for the market.

Although it is still necessary to import some milk from outside markets to supply the needs of handlers at certain times during the year, the overall supply pattern in Georgia is much improved over previous years.

Total milk production in the State of Georgia for the year 1969 was 5 percent greater than in 1968. In each month of 1969 production exceeded that of the corresponding month of 1968. In January 1970, production was 9 percent greater than in January 1969, and in February was 7 percent greater than in February 1969. These figures are taken from the January and February 1970 issues of "Milk Production", a publication of the U.S. Department of Agriculture, Statistical Research Service, of which official notice was taken at the hearing.

Since the order has been in effect only since April 1, 1969, there are no figures available to make a month-to-month comparison of producer receipts by regulated handlers. Because most milk produced in Georgia is producer milk, subject to regulation under the order, total Georgia production is a reasonable index of the production pattern of Georgia producers whose milk is regulated by the order.

Since the order became effective, there has been a substantial increase in the number of producers supplying the market. In April 1969, there were 1,348 producers whose milk was pooled under the order. In January 1970, there were 1,532 producers. This is in sharp contrast to the situation in most other markets which have experienced a decline in producer numbers during the same period.

In September 1969, Class I sales by pool handlers exceeded receipts from producers by approximately 1.5 million pounds. Some other source milk has been allocated to Class I use in each month since the order became effective. The amounts so allocated ranged from a low of 1.94 million pounds in April 1969 to a high of 7.26 million pounds in September 1969. The latter figure equals 6.3 percent of the total milk handled during the month. Producer milk supplies are not quite sufficient yet to meet the complete requirements of the market, but in view of the substantial increases both in the volume of milk and in the number of producers that have occurred since the order became effective, it is reasonable to expect that continuation of this trend will bring supplies into full balance with demand at the present price level.

Hence, the present Class I differential of $2.10 plus an additional 20 cents per hundredweight should be incorporated in the order on a permanent basis.

The proviso which prevented the Class I price from being less than the Chattanooga price plus 15 cents is no longer

applicable and should be deleted. When the order was promulgated, the Chattanooga order contained a supply-demand adjustor which caused the Class I price to fluctuate as supply varied in relation to demand. It was feared that should the difference in the Class I prices in the two markets be less than 15 cents, there could be an uneconomical shifting of producers from the Georgia market. An amendment to the Chattanooga order, effective December 1, 1969, eliminated the supply-demand adjustor and fixed the Class I differential at a level 15 cents below the Class I differential in the Georgia order.

2. A new pricing zone should not be established in southern Georgia.

Producers proposed to divide the current Southern Zone into two zones, to be designated the "Central Zone" and "Southern Zone" respectively. The new Southern Zone would include all the territory in Georgia south of the northern boundaries of the following counties: Stewart, Webster, Sumter, Dooly, Pulaski, Bleckley, Laurens, Johnson, Emanuel, Jenkins, and Screven. The remainder of the marketing area not in either the new Southern Zone or the Northern Zone would comprise the Central Zone.

A similar proposal was considered at the original promulgation hearing. On the basis of the hearing record, the Assistant Secretary concluded that there was no need for a higher minimum price level in southern Georgia to insure an adequate supply. It was pointed out then that southern Georgia is predominately rural and that most of the State's population resides in the central portion of the State. It was concluded that the same Class I price should apply at all plants in the area covered by the proposed Central and Southern zones, instead of providing a higher level of prices in the most southern portion of Georgia.

Proponents of the proposal to establish a new Southern Zone with a Class I price level 15 cents higher than that currently required of handlers so located stated that the higher prices are necessary for the following reasons.

(a) Production costs in this zone are higher than in the remainder of the State because the farms there are generally larger and require more hired labor; the land is better suited to a diversified agriculture than in the rest of the State; hence, dairymen there are in a position to shift from dairying to alternative farm enterprises;

(b) This zone is a deficit production area and, being farther from the sources of alternative supplies, it costs more to move supplemental milk to handlers in this zone; and

(c) A higher price is necessary to provide better price alignment with the Upper Florida market.

Proprietary handlers testified, on the other hand, that the productivity of farms in this zone is generally greater than in other parts of the State and that there has been no substantial shift from dairying to other farm enterprises. One handler witness stated that in Jenkins and Screven Counties, both in the Southern Zone, the trend is in the opposite direction; that farmers are shifting to dairying from other types of agriculture. Both counties are among the largest milk producing counties in the State at the present time. The proprietary handlers testified further that there is no need for a higher price in the southern part of the State to induce necessary supplies.

Cost factors in the Southern Zone are generally similar to those incurred throughout the State. There is no difference in the average cost of farm to plant hauling. No evidence was presented to show that the costs of replacement cows or of purchased grains and dairy feeds are any higher there than elsewhere in the State. While it was stated that more hired labor is employed on farms in this zone, it was not shown that the wages paid such labor are higher than in other parts of the State. It is noteworthy also that it is the practice of cooperatives to pay blend prices to their producers rather uniformly throughout the State rather than by zones.

From the foregoing, there is inadequate basis for distinguishing the proposed Southern Zone on the grounds of differences in major factors of production. Actually, during the past year the rate of the increase in milk production in this zone has been at least as great as in the remainder of the State. There has been no decline in the number of producers whose farms are located there since the order became effective.

Also, the supply areas of plants in the two zones overlap to a great degree. Several plants in the proposed Central Zone receive milk from producers whose farms are in the Southern Zone. One handler operating sizeable plants in Macon and Augusta (both in the Central Zone) receives approximately 40 percent of the producer milk at each plant from farms located in the Southern Zone. Other plants in the Central Zone receive varying percentages of their milk from farms in the Southern Zone.

A handler operating a plant at Savannah in the Southern Zone receives 80 percent of his producer milk at this plant from farms in the Central Zone. Other plants in the Southern Zone also receive some milk from producers in the Central Zone. Substantial quantities of milk move out of the Jenkins-Screven County area (both in the Southern Zone) to plants at Washington, Macon, and Augusta, all in the proposed Central Zone.

As to the indicated deficit of supply in the Southern Zone, supplies locally available within the zone are more nearly in line with the requirements of plants located there than is the case in the rest of the State. As noted above, the volume of milk moving from farms in this zone to plants in the Central Zone is substantially greater than that moving to Southern Zone plants from farms located outside the zone. In December 1969, the number of producers whose milk was received at plants in the Southern Zone was less than the total number of producers with farms in this zone. If all the milk produced in the proposed Southern Zone were delivered to handlers in this zone, the demands of handlers so located would be fully covered. In view of the close interrelationships in distribution and supplies between the two zones, the distinction cannot be made that one is deficit and the other not.

Some milk bottled in the Southern Zone is regularly distributed in the Central Zone. Substantial quantities of packaged milk regularly move from the Central Zone to the Southern Zone. At least seven of the larger plants in the Central Zone have regular route disposition in the Southern Zone. The operator of one of these, a plant at Macon, sells 20 to 25 percent of the plant's Class I distribution in the Southern Zone. Another plant at Columbus, in the Central Zone, has route distribution in the Southern Zone equal to 17.3 percent of its total Class I disposition and to 20 percent of its Class I distribution within the State of Georgia.

From the above, it is concluded also that there is no clear line of demarcation between the proposed Central and Southern zones with respect to distribution of the plants in the respective zones.

Supplemental supplies brought in from outside the State are delivered primarily to pool plants located in the proposed Central Zone. The importation of supplemental milk supplies, in any case, represents only a small percentage of the total milk utilized in the marketing area. The differences in hauling cost on such supplemental supplies from a major producing area such as the Chicago milkshed would not be of such significance on delivery to a Southern Zone plant as compared with a Central Zone plant as to warrant a 15-cent higher price in the Southern Zone.

There is no indicated marketing problem arising from the present price alignment between the Georgia and Upper Florida markets. Prior to April 1, 1970, the Class I price in Upper Florida was 50 cents higher than the Georgia Class I price. Effective April 1, this difference was reduced to 35 cents.

Even with the former difference in Class I prices, the resulting blend prices did not cause producers to shift from the Georgia market to the Upper Florida market. A few producers normally associated with the Upper Florida market transferred, however, to the Georgia market in the fall of 1969. At that time a Georgia plant began bottling milk for a handler based in Jacksonville, Fla. The milk supplies from these producers represented approximately the volume of packaged milk which was moved back to the Upper Florida regulated handler. This temporary arrangement ended in December 1969 and the producers involved then returned to the Upper Florida market.

Route disposition to retail and wholesale outlets in Upper Florida by Georgia handlers is minimal. Two handlers regulated by the Upper Florida order have small route disposition in the Georgia marketing area. It must be concluded that the minor interchange of route disposition and supplies of milk from producers between the two markets has not

seriously affected the competitive position of regulated handlers in either market.

On the basis of the evidence contained in this record, there should be no change in the Class I price level in the area now described in the order as the Southern Zone.

Counsel for certain handlers objected to the ruling of the Presiding Officer that witnesses could not present testimony with respect to proposed amendments which the Deputy Administrator had refused to include in the notice of hearing because they would not tend to effectuate the declared policy of the Act, or to other matters which the Presiding Officer deemed to be irrelevant and outside the scope of the hearing. Counsel presented an offer of proof which accompanied the hearing record.

This offer of proof has been reviewed and it is concluded that the Presiding Officer ruled correctly in rejecting the proffered testimony.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

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 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) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) 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 marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be 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; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Georgia marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

Revise § 1007.51(a) to read as follows:

§ 1007.51 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $2.10 and plus 20 cents.

* * * * *

Signed at Washington, D.C., on May 12, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-6004; Filed, May 14, 1970; 8:51 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 19]

BLUE AND GORGONZOLA CHEESE IDENTITY STANDARDS

Proposal Regarding Optional Use of Sorbic Acid and Its Potassium and Sodium Salts

Notice is given that a petition has been filed by the National Cheese Institute, Inc., 110 North Franklin Street, Chicago, Ill. 60606, proposing that the identity standards for blue cheese (21 CFR 19.565) and gorgonzola cheese (21 CFR 19.567) be amended to provide for optional application to the food surface of sorbic acid, potassium sorbate, and sodium sorbate to inhibit growth of surface mold. It is proposed that the mold inhibitors be used singly or in combination in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

Grounds set forth in the petition are that use of the mold-inhibiting ingredients will reduce cheese losses and labor required for trimming away surface mold following the curing period, and will prevent formation of mold on retail sized cuts of cheese in distribution channels and in the hands of consumers.

The petition proposes label declaration of the proposed optional ingredients when used on either cheese.

Accordingly, it is proposed that Part 19 be amended:

1. In § 19.565 by revising paragraph (d) and redesignating it as paragraph (e) and by adding a new paragraph (d), as follows:

§ 19.565 Blue cheese; identity; label statement of optional ingredients.

* * * * *

(d) The food may have applied to its surface an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1) If the milk used is bleached, the label shall bear the statement "milk bleached with benzoyl peroxide."

(2) If the food contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard surface mold growth" or "_____ added as a preservative," the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Whenever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed in this paragraph showing the optional ingredients used shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

2. In § 19.567 by revising paragraph (d) and redesignating it as paragraph (e) and by adding a new paragraph (d), as follows:

§ 19.567 Gorgonzola cheese; identity; label statement of optional ingredients.

* * * * *

(d) The food may have applied to its surface an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1) If the milk used is bleached, the label shall bear the statement "milk bleached with benzoyl peroxide."

(2) If the food contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard surface mold growth" or "_____ added as a preservative," the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Whenever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed in this paragraph showing the optional ingredients used shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401,

701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 60 days after its date of publication in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, and may be accompanied by a memorandum or brief in support thereof.

Dated: May 5, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5939; Filed, May 14, 1970; 8:46 a.m.]

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Revocation of Phenothiazine Tolerances

As a result of the 1950 Spray-Residue Hearings and pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act, tolerances were established for residues of the insecticide phenothiazine in or on apples, pears, and quinces at 7 parts per million. A policy of the Food and Drug Administration is to review its pesticide tolerances with respect to new scientific data and information and to reduce existing tolerances to levels no higher than shown to be necessary. This policy is in accordance with recommendations of the President's Science Advisory Committee Report on the Use of Pesticides (May 15, 1963).

A review of the established tolerances for residues of phenothiazine in or on such fruits was made to determine whether the current agricultural practices and available data justify their continuation at 7 parts per million. The review revealed that the established tolerances are unnecessary since the use of phenothiazine has been discontinued as an insecticide on such fruits in all major growing areas.

The U.S. Department of Agriculture advises that no current uses for phenothiazine on such fruits warrant continued registration.

Based on consideration given to the above information and other relevant material, the Commissioner of Food and Drugs concludes that the subject tolerances should be revoked.

Therefore, pursuant to provisions of the act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that § 120.170 *Phenothiazine; tolerances for residues* be revoked.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing the subject pesticide chemical may request, within 30 days after publication of this notice in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: May 8, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5940; Filed, May 14, 1970; 8:46 a.m.]

[21 CFR Parts 135, 144]

NEW ANIMAL DRUGS

Proposed Definitions and Procedural Regulations

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343 et seq.; 21 U.S.C. 360b, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that Title 21, Chapter I, be amended to establish definitions and procedural regulations regarding new animal drugs:

1. By adding the following new Part 135:

PART 135—NEW ANIMAL DRUGS

Subpart A—Definitions and Procedural Regulations

Sec.

AUTHORITY: The provisions of this Part 135 issued under secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343 et seq.; 21 U.S.C. 360b, 371(a).

Subpart A—Definitions and Procedural Regulations

§ 135.1 Definitions and interpretations.

As used in this part:

(a) The term "act" means the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201-902, 52 Stat. 1040 et seq., as amended; 21 U.S.C. 321-392).

(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Secretary" means the Secretary of Health, Education, and Welfare.

(d) "Commissioner" means the Commissioner of Food and Drugs.

(e) "Person" means individuals, partnerships, corporations, and associations.

(f) The definitions and interpretations of terms contained in section 201 of the act shall be applicable to such terms when used in the regulations in this part.

(g) A "new animal drug" means any drug intended for use for animals including any drug intended for use in animal feed: (1) The composition of which is such that it is not generally recognized, among appropriately qualified experts, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; (2) the composition of which is such that the drug, as a result of scientific investigations as to safety and effectiveness, has become generally recognized, among appropriately qualified experts, as safe and effective for its intended uses, but which has not otherwise been used to a material extent and

for a material time under the conditions prescribed, recommended, or suggested in the labeling thereof; and (3) which is composed, wholly or in part, of any kind of penicillin, streptomycin, chlortetracycline, chloramphenical, or bacitracin, or any derivative thereof, unless specifically exempted by a published order.

(h) "Animal feed" means an article intended for use as a substantial source of nutrient in the diet of animals, including concentrates, premixes, and feed supplements, and is not limited to mixtures intended as the sole ration of the animals.

(i) The newness of an animal drug, including a new animal drug intended for use in animal feed, may arise by reason of: (1) The newness for its intended drug use of any substance of which the drug is comprised, in whole or in part, whether it be an active substance or a menstrum, excipient, carrier, coating, or other component; (2) the newness for its intended drug use of a combination of two or more drugs, none of which is itself a new animal drug; (3) the newness for its intended drug use of the proportion of a substance in a combination of drugs or in animal feed, even though such combination containing such substance in other proportion is not a new animal drug; (4) the newness for its intended drug use in a species of animal; (5) the newness of its intended drug use or drug use in animal feed containing such drug in diagnosing, curing, mitigating, treating, or preventing a disease, or to affect a structure or function of the animal body, even though such drug or animal feed containing such drug is not a new animal drug when used in another disease or to effect another structure or function of the body; or (6) the newness of a dosage, or method or duration of administration or application, or any other condition of use prescribed, recommended, or suggested in the labeling of such drug, even though such drug or animal feed containing such drug when used in other dosage, or other method or duration of administration or application, or different condition, is not a new animal drug.

(j) "Animals used only for laboratory research" and "laboratory research animals" mean individual animals or groups of animals intended for use and used solely for laboratory research purposes, regardless of species, and does not include animals intended to be used for any food purposes or animals intended to be kept as domestic pets or livestock.

(k) The term "sponsor" means the person responsible for an investigation of a new animal drug, including responsibility for compliance with applicable provisions of the act and regulations. The "sponsor" may be an individual, partnership, corporation, or Government agency or may be a manufacturer, scientific institution, or an investigator regularly and lawfully engaged in the investigation of new drugs.

(l) "Designated journal(s)" means journals listed in § 135.37.

§ 135.2 Biologics; products subject to license control.

A new animal drug produced and distributed in full conformance with the animal virus, serum, and toxin law of March 4, 1913 (37 Stat. 832; 21 U.S.C. 151 et seq.) and any regulations issued thereunder shall not be deemed to be subject to section 512 of the Federal Food, Drug, and Cosmetic Act.

§ 135.3 New animal drugs for investigational use; exemptions from section 512(a) of the act.

(a) *New animal drugs for tests in vitro and in laboratory research animals.* (1) A shipment or other delivery of a new animal drug intended solely for tests in vitro or in animals used only for laboratory research purposes shall be exempt from section 512(a) of the act if it is labeled as follows: *"Caution*—Contains a new animal drug for investigational use only in laboratory research animals or for tests in vitro. Not for human use."

(2) The person distributing or causing the distribution of new animal drugs for tests in vitro or in animals used only for laboratory research purposes under this exemption shall use due diligence to assure that the consignee is regularly engaged in conducting such tests and that the shipment of the new drug will actually be used for tests in vitro or in animals used only for laboratory research.

(3) The person who introduced such shipment or who delivered the drug for introduction into interstate commerce shall maintain adequate records showing the name and post office address of the expert or expert organization to whom the drug is shipped and the date, quantity, and batch or code mark of each shipment and delivery for a period of 2 years after such shipment and delivery. Upon the request of a properly authorized employee of the Department at reasonable times, he shall make such records available for inspection and copying.

(4) The exemption allowed in this paragraph shall not apply to any new animal drug intended for in vitro use in the regular course of diagnosing or treating disease, including antibacterial sensitivity discs impregnated with any new animal drug or drugs, which discs are intended for use in determining susceptibility of micro-organisms to the new drug or drugs.

(b) *New animal drugs for clinical investigation in animals.* A shipment or other delivery of a new animal drug or an animal feed containing a new animal drug intended for clinical investigational use in animals shall be exempt from section 512(a) of the act if all the following conditions are met:

(1) The label shall bear the statements:

"Caution—Contains a new animal drug for use only in investigational animals in clinical trials. Not for human use. Edible products of investigational animals are not to be used for food unless authorization has been granted by the U.S. Food and Drug Administration or by the U.S. Department of Agriculture." In the case of containers too small or otherwise unable to accommodate a label with sufficient space to bear the caution statements required by paragraphs (a) or (b) of this section, the statements may be included on the carton label and other labeling on or within the package from which the drug is to be dispensed.

(2) The person or firm distributing or causing the distribution of the new animal drug or animal feed containing a new animal drug shall use due diligence to assure that the drug will actually be used for tests in animals and is not used in humans.

(3) The person who introduced such shipment or who delivered the drug for introduction into interstate commerce shall maintain adequate records showing the name and post office address of the investigator to whom the drug is shipped and the date, quantity, and batch or code mark of each shipment and delivery for a period of 2 years after such shipment and delivery. Upon the request of a properly authorized employee of the Department at reasonable times, such records shall be made available for inspection and copying.

(4) Prior to the shipment of the drug for clinical tests in animals, the sponsor of the investigation shall submit in triplicate to the Food and Drug Administration a signed statement containing the following information:

(i) The identity of the drug.

(ii) All labeling and other pertinent information to be supplied to the investigators.

(iii) The name and address of each clinical investigator.

(iv) The approximate number of animals to be treated (or if not available, the amount of drug to be shipped).

(v) If the drug is given to food-producing animals, the statement shall contain the following additional information:

(*a*) A commitment that the edible products from such animals shall not be used for food without prior authorization in accordance with the provisions prescribed in this section.

(*b*) Approximate dates of the beginning and end of the experiment or series of experiments.

(*c*) The maximum daily dose(s) to be administered to a given species, the size of animal, maximum duration of administration, method(s) of administration, and proposed withdrawal time, if any.

(5) Authorization for use of edible products derived from a treated food-producing animal may be granted under the provisions of this section and when the following specified conditions are met, except that in the case of an animal administered any unlicensed experimental veterinary biological product regulated under the viruses, serums, toxins statute (21 U.S.C., Chapter V, sec. 151 et seq.) the product shall be exempt from the requirements of this section when

U.S. Department of Agriculture approval has been obtained as provided in §103.2 of Title 9, Code of Federal Regulations. Conditional authorization may be granted in advance of identification of the name(s) and address(es) of the clinical investigator(s) as required by subparagraph (4)(iii) of this paragraph. Information required for authorization shall include, in addition to all other requirements of this section, the following:

(i) Data to show that consumption of food derived from animals treated at the maximum levels with the minimum withdrawal periods, if any, specified in accordance with subparagraph (4)(v)(c) of this paragraph, will not be inconsistent with the public health; or

(ii) Data to show that food derived from animals treated at the maximum levels and with the minimum withdrawal periods, if any, specified in accordance with subparagraph (4)(v)(c) of this paragraph, does not contain drug residues or metabolites.

(iii) The name and location of the packing plant where the animals will be processed, except that this requirement may be waived, on request, by the terms of the authorization.

Authorizations granted under this subparagraph do not exempt investigational animals and their products from compliance with other applicable inspection requirements.

(6) On written request of the Food and Drug Administration, the sponsor shall submit any additional information available to him with respect to the investigation deemed necessary to facilitate a determination whether there are grounds in the interest of public health for terminating the exemption.

(7) The sponsor shall assure himself that the drug is shipped only to investigators who:

(i) Are qualified by scientific training and/or experience to evaluate the safety and/or effectiveness of the drug.

(ii) Shall maintain complete records of the investigations.

(iii) Shall furnish adequate and timely reports of the investigation to the sponsor.

(8) The sponsor:

(i) Shall retain all reports received from investigators for 2 years after the termination of the investigation or approval of a new animal drug application and make such reports available to a duly authorized employee of the Department for inspection at all reasonable times.

(ii) Shall provide for current monitoring of the investigation by a person qualified by scientific training and experience to evaluate information obtained from the investigation, and shall promptly investigate and report to the Food and Drug Administration and to all investigators any findings associated with use of the drug that may suggest significant hazards pertinent to the safety of the drug.

(iii) Shall not unduly prolong distribution of the drug for investigational use.

(iv) Shall not, nor shall any person acting for or on behalf of the sponsor, represent that the drug is safe or effective for the purposes for which it is under investigation. This requirement is not intended to restrict the full exchange of scientific information.

(v) Shall not commercially distribute nor test-market the drug until a new animal drug application is approved pursuant to section 512(c) of the act.

(9) If the shipment or other delivery of the new animal drug is imported or offered for importation into the United States for clinical investigational use in animals, it shall also meet the following conditions:

(i) The importer of all such shipments or deliveries is an agent of the foreign exporter residing in the United States or the ultimate consignee, which person has, prior to such shipments and deliveries, informed the Food and Drug Administration of his intention to import the new animal drug as sponsor in compliance with the conditions prescribed in this subdivision; or

(ii) The drug is shipped directly to a scientific institution with adequate facilities and qualified personnel to conduct laboratory or clinical investigations and is intended solely for use in such institutions and which institution has submitted a statement as sponsor of the investigation.

(c) *Withdrawal of eligibility to receive investigational-use drugs.* (1) Whenever the Food and Drug Administration has information indicating that an investigator has repeatedly or deliberately failed to comply with the conditions of these exempting regulations or has submitted to the sponsor of the investigation or in any required report false information, the Director of the Bureau of Veterinary Medicine will furnish the investigator written notice of the matter complained of in general terms and offer him an opportunity to explain the matter in an informal conference and/or in writing. If an explanation is offered but not accepted by the Bureau of Veterinary Medicine, the Commissioner will provide the investigator an opportunity for an informal hearing on the question of whether the investigator is entitled to receive investigational-use drugs, if the hearing is requested within 10 days after receipt of notification that the explanation is not acceptable.

(2) If, after evaluating all available information including any explanation and assurance presented by the investigator, the Commissioner determines that the investigator has repeatedly or deliberately failed to comply with the conditions of the exempting regulations in this section or has repeatedly or deliberately submitted false information to the sponsor of an investigation and has failed to furnish adequate assurance that the conditions of the exemption will be met, the Commissioner will notify the investigator and the sponsor of any investigation in which he has been named as a participant that the investigator is not entitled to receive investigational-use drugs with a statement of the basis for such determination.

(3) Each "Notice of Claimed Investigational Exemption for a New Animal Drug" and each approved new animal drug application containing data reported by an investigator who has been determined to be ineligible to receive investigational-use drugs will be examined to determine whether he has submitted unreliable data that are essential to the continuation of the investigation or essential to the approval of any new animal drug application.

(4) If the Commissioner determines after the unreliable data submitted by the investigator are eliminated from consideration that the data remaining are inadequate to support a conclusion that it is reasonably safe to continue the investigation, he will notify the sponsor and provide him with an opportunity for a conference in accordance with paragraph (d) of this section. If an imminent hazard to the public health exists, however, he shall terminate the exemption forthwith and notify the sponsor of the termination. In such event the Commissioner, on request, will afford the sponsor an opportunity for an informal hearing on the question of whether the exemption should be reinstated.

(5) If the Commissioner determines after the unreliable data submitted by the investigator are eliminated from consideration that the data remaining are such that a new animal drug application would not have been approved, he will proceed to withdraw approval of the application in accordance with section 512(e) of the act.

(6) An investigator who has been determined to be ineligible may be reinstated as eligible to receive investigational-use drugs when the Commissioner determines that he has presented adequate assurance that he will employ such drugs solely in compliance with the exempting regulations in this section for investigational-use drugs.

(d) *Termination of exemption.* If the Commissioner finds that:

(1) The sponsor of the investigation has failed to comply with any of the conditions for the exemption established under this section; or

(2) The continuance of the investigation is unsafe or otherwise contrary to the public interest or the drug is being or has been used for purposes other than bona fide scientific investigation;

he shall notify the sponsor and invite his immediate correction. A conference will be arranged if requested. If the conditions of the exemption are not immediately met, the Commissioner shall notify the sponsor of the termination of the exemption and the sponsor shall recall or have destroyed the unused supplies of the drug.

(e) *Statements and requests.* Notices of Claimed Investigational Exemption for new animal drugs and requests for authorization to use investigational animals and their products for food should be addressed to the Department

of Health, Education, and Welfare, Food and Drug Administration, Bureau of Veterinary Medicine, 5600 Fishers Lane, Rockville, Md. 20852.

§ 135.4a New animal drug applications.

(a) Applications to be filed under section 512(b) of the act shall be submitted in the form described in paragraph (b) of this section. If any part of the application is in a foreign language, an accurate and complete English translation shall be appended to such part. Translations of literature printed in a foreign language shall be accompanied by copies of the original publication. The application must be signed by the applicant or by an authorized attorney, agent, or official. If the applicant or such authorized representative does not reside or have a place of business within the United States, the application must also furnish the name and post office address of, and must be countersigned by, an authorized attorney, agent, or official residing or maintaining a place of business within the United States. Pertinent information may be incorporated in, and will be considered as part of, an application on the basis of specific reference to such information, including information submitted under the provisions of § 135.3, in the files of the Food and Drug Administration; however, the reference must be specific in identifying the information and any reference to information furnished by a person other than the applicant. Such information may not be considered unless its use is authorized in a written statement signed by the person who submitted it.

(b) Applications for new animal drugs shall be submitted in triplicate and assembled in the manner prescribed by paragarph (e) of this section, and shall include the following information:

(1) *Identification.* Whether the submission is an original or supplemental application; the name and the address of the applicant; the date of the application; the trade name(s) and chemical name(s) of the drug. Upon filing the application will be assigned a number NADA ------, which shall be used for all correspondence with respect to the application.

(2) *Table of contents and summary.* The application shall be organized in a cohesive fashion, shall contain a table of contents which identifies the data and other material submitted, and shall contain a well-organized summary and evaluation of the data in the following form:

(i) Chemistry:

(*a*) Chemical structural formula or description for any new animal drug substance.

(*b*) Relationship to other chemically or pharmacologically related drugs.

(*c*) Description of dosage form and quantitative composition.

(ii) Scientific rationale and purpose the drug is to serve:

(*a*) Clinical purpose.

(*b*) Highlights of preclinical studies: The reasons why certain types of studies were done or omitted as related to the proposed conditions of use and to information already known about this class of compounds. Emphasize any unusual or particularly significant pharmacological effects or toxicological findings.

(*c*) Highlights of clinical studies: The rationale of the clinical study plan showing why types of studies were done, amended, or omitted as related to preclinical studies and prior clinical experience.

(*d*) Conclusions: A short statement of conclusions combining the major points of effectiveness and safety as they relate to the use of the drug.

(3) *Labeling.* Three copies of each piece of all labeling to be used for the article (total of 9).

(i) All labeling should be identified to show its position on, or the manner in which it accompanies, the market package.

(ii) Labeling for nonprescription drugs should include adequate directions for use by the layman under all conditions for which the drug is intended, recommended, or suggested in any of the labeling or advertising sponsored by the applicant.

(iii) Labeling for prescription veterinary drugs should bear adequate information for use under which veterinarians can use the drug safely and for the purposes for which it is intended, including those purposes for which it is to be advertised or represented, in accord with § 1.106(c) of this chapter.

(iv) All labeling for prescription or nonprescription drugs shall be submitted with any necessary tolerance, withdrawal period, or other use restrictions prominently and conspicuously displayed.

(v) Labeling for new animal drugs or premixes intended for use in the manufacture of medicated feeds shall include:

(*a*) Specimens of labeling to be used for such drug with adequate directions for the manufacture and use of finished feeds for all conditions for which the drug is intended, recommended, or suggested in any of the labeling or advertising sponsored by the applicant.

(*b*) Specimens of all labeling representative of those proposed to be used for finished feeds manufactured from the drug or premix.

(vi) Draft labeling may be submitted for preliminary consideration of an application. Final printed labeling will be required prior to approval of an application. Proposed advertising for veterinary prescription drugs must be submitted for comment or approval.

(4) *Components and composition.* A complete list of all articles used for production of the drug including a full list of the composition of each article:

(i) A full list of the articles used as components of the drug. This list should include all substances used in the synthesis, extraction, or other method of preparation of any new animal drug substance and in the preparation of the finished dosage form, regardless of whether they undergo chemical change or are removed in the process. Each substance should be identified by its established name, if any, or complete chemical name, using structural formulas when necessary for specific identification. If any proprietary name is used, it should be followed by a complete quantitative statement of composition. Reasonable alternatives for any listed substance may be specified.

(ii) A full statement of the composition of the drug. The statement shall set forth the name and amount of each ingredient, whether active or not, contained in a stated quantity of the drug in the form in which it is to be distributed (for example, amount per tablet or milliliter) and a batch formula representative of that to be employed for the manufacture of the finished dosage form. All components should be included in the batch formula regardless of whether they appear in the finished product. Any calculated excess of an ingredient over the label declaration should be designated as such and percent excess shown. Reasonable variations may be specified.

(iii) If it is a drug produced by fermentation:

(*a*) Source and type of micro-organism used to produce the drug.

(*b*) Composition of media used to produce the drug.

(*c*) Type of precursor used, if any, to guide or enhance production of the antibiotic during fermentation.

(*d*) Name and composition of preservative, if any, used in the broth.

(*e*) A complete description of the extraction and purification processes including the names and compositions of the solvents, precipitants, ion exchange resins, emulsifiers, and all other agents used.

(*f*) If the drug is produced by a catalytic hydrogenation process (such as tetracycline from chlortetracycline), a complete description of each chemical reaction with graphic formulas used to produce the drug, including the names of the catalyst used, how it is removed, and how the drug is extracted and purified.

(5) *Manufacturing methods, facilities, and controls.* A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of the drug. This description should include full information with respect to any new animal drug substance and the new animal drug dosage form in sufficient detail to permit evaluation of the adequacy of the described methods of manufacture, processing, and packing, and the described facilities and controls to determine and preserve the identity, strength, quality, and purity of the drug, and the following:

(i) If the applicant does not himself perform all the manufacturing, processing, packaging, labeling, and control operations for any new animal drug substance or the new animal drug dosage form, he shall: identify each person who will perform any part of such operations and designate the part; and provide a signed statement from each such person fully describing, directly or by reference, the methods, facilities, and controls he will use in his part of the operation. The

statement shall include a commitment that no changes will be made without prior approval by the Food and Drug Administration, unless permitted under § 135.13.

(ii) A description of the qualifications, including educational background and experience, of the technical and professional personnel who are responsible for assuring that the drug has the safety, identity, strength, quality, and purity it purports or is represented to possess, and a statement of their responsibilities.

(iii) A description of the physical facilities including building and equipment used in manufacturing, processing, packaging, labeling, storage, and control operations.

(iv) The methods used in the synthesis, extraction, isolation, or purification of any new animal drug substance. When the specifications and controls applied to such substance are inadequate in themselves to determine its identity, strength, quality, and purity, the methods should be described in sufficient detail, including quantities used, times, temperature, pH, solvents, etc., to determine these characteristics. Alternative methods or variations in methods within reasonable limits that do not effect such characteristics of the substances may be specified. A flow sheet and indicated equations should be submitted when needed to explain the process.

(v) Precautions to insure proper identity, strength, quality, and purity of the raw materials, whether active or not, including:

(*a*) The specifications for acceptance and methods of testing for each lot of raw material.

(*b*) A statement as to whether or not each lot of raw materials is given a serial number to identify it, and the use made of such numbers in subsequent plant operations.

(vi) The instructions used in the manufacturing, processing, packaging, and labeling of each dosage form of the new animal drug, including:

(*a*) The method of preparation of the master formula records and individual batch records and the manner in which these records are used.

(*b*) The number of individuals checking weight or volume of each individual ingredient entering into each batch of the drug.

(*c*) A statement as to whether or not the total weight or volume of each batch is determined at any stage of the manufacturing process subsequent to making up a batch according to the formula card and, if so, at what stage and by whom it is done.

(*d*) The precautions used in checking the actual package yield produced from a batch of the drug with the theoretical yield. This should include a description of the accounting for such items as discards, breakage, etc., and the criteria used in accepting or rejecting batches of drugs in the event of an unexplained discrepancy.

(*e*) The precautions used to assure that each lot of the drug is packaged with the proper label and labeling, including provisions for labeling storage and inventory control.

(*f*) Any special precautions used in the operations.

(vii) The analytical controls used during the various stages of the manufacturing, processing, packaging, and labeling of the drug, including a detailed description of the collection of samples and the analytical procedures to which they are subjected. The analytical procedures should be capable of determining the active components within a reasonable degree of accuracy and of assuring the identity of such components. If the article is one that is represented to be sterile, the same information with regard to the manufacturing, processing, packaging, and the collection of samples of the drug should be given for sterility controls. Include the standards used for acceptance of each lot of the finished drug.

(viii) An explanation of the exact significance of any batch control numbers used in the manufacturing, processing, packaging, and labeling of the drug, including such control numbers that may appear on the label of the finished article. State whether these numbers enable determination of the complete manufacturing history of the product. Describe any methods used to permit determination of the distribution of any batch if its recall is required.

(ix) Adequate information with respect to the characteristics of and the test methods employed for the container, closure, or other component parts of the drug package to assure their suitability for the intended use.

(x) A complete description of, and data derived from, studies of the stability of the drug, including information showing the suitability of the analytical methods used. Describe any additional stability studies underway or planned. Stability data should be submitted for any new animal drug substance, for the finished dosage form of the drug in the container in which it is to be marketed, including any proposed multiple-dose container, and, if it is to be put into solution at the time of dispensing, for the solution prepared as directed. An expiration date is required on the label of every new animal drug unless adequate data are submitted to demonstrate that one is not necessary.

(xi) Additional procedures employed which are designed to prevent contamination and otherwise assure proper control of the product.

An application may be refused unless it includes adequate information showing that the methods used in, and the facilities and controls used for, the manufacturing, processing, and packaging of the drug are adequate to preserve its identity, strength, quality, and purity in conformity with good manufacturing practice and identifies each establishment, showing the location of the plant conducting these operations.

(6) *Samples.* Samples of the new animal drug and articles used as components and information concerning them shall be submitted only on the request of the Bureau of Veterinary Medicine. If requested, they should consist of all or any part of the following:

(i) Each sample shall consist of four identical, separately packaged subdivisions, each containing at least three times the amount required to perform the laboratory test procedures described in the application to determine compliance with its control specifications for identity and assays. Each of the samples submitted shall be appropriately packaged and labeled to preserve its characteristics, to identify the material and the quantity in each subdivision of the sample, and to identify each subdivision with the name of the applicant and the new animal drug application to which it relates. Included are:

(*a*) A sample or samples of any reference standard and blank used in the procedures described in the application for assaying each new animal drug substance and other assayed components of the finished drug.

(*b*) A representative sample or samples of each strength of the finished dosage form proposed in the application and employed in the clinical investigations and a representative sample or samples of each new animal drug substance from the batch(es) employed in the production of such dosage form.

(*c*) A representative sample or samples of finished market packages of each strength of the dosage form of the drug prepared for initial marketing and, if any such sample is not from a representative commercial-scale production batch, such a sample from a representative commercial-scale production batch, and a representative sample or samples of each new animal drug substance from the batch(es) employed in the production of such dosage form, provided that in the case of new animal drugs marketed in large packages the sample should contain only three times a sufficient quantity of the new animal drug to allow for performing the control tests for drug identity and assays.

(ii) The following information shall be included for the samples when requested:

(*a*) For each sample submitted, full information regarding its identity and the origin of any new animal drug substance contained therein (including in the case of new animal drug substances, a statement whether it was produced on a laboratory, pilot-plant, or full-production scale) and detailed results of all laboratory tests made to determine the identity, strength, quality, and purity of the batch represented by the sample, including assays.

(*b*) For any reference standard submitted, a complete description of its preparation and the results of all laboratory tests on it. If the test methods used differed from those described in the application, full details of the methods employed in obtaining the reported results.

(7) *Analytical methods for residues.* Applications for new animal drugs shall include a description of practicable methods for determining the quantity, if any, of such drug in or on food, and any

substance formed in or on food because of its use, and the proposed tolerance or withdrawal period or other use restrictions for such drug if any tolerance or withdrawal period or other use restrictions are required in order to assure that the proposed use of such drug will be safe. When data or other adequate information establish that it is not reasonable to expect the drug to become a component of food, assay methodology is not required.

(i) Complete experimental protocols for determining drug residue levels in the edible products should be presented, and the length of time required for residues to be eliminated from such products following the drug's use determined. Residue studies should be conducted under appropriate (consistent with the proposed usage) conditions of dosage, time, and route of administration to show levels, if any, of the drug and/or its metabolites in test animals during and upon cessation of treatment and at intervals thereafter in order to establish a disappearance curve. If the drug is to be used in combination with other drugs, possible effects of interaction should be demonstrated by the appropriate disappearance curve or depletion patterns after drug withdrawal under appropriate (consistent with the proposed usage) conditions of dosage, time, and route of administration. If the drug is given in the feed or water, daily consumption records of the medicated feed or water and performance data in the treated animal should be furnished. If the drug is to be used in more than one species, drug residue studies or appropriate metabolic studies should be conducted for each species that is food-producing. To provide these data, a sufficient number of birds or animals should be used at each sample interval. Appropriate use of labeled compounds may be utilized to establish metabolism and depletion curves. Drug residue levels should be determined in muscle, liver, kidney, and fat and, where applicable, in skin, milk, and eggs (yolk and egg white). In addition, levels of the drug or metabolite should be determined in blood. Skin and fat samples may be combined, where necessary, to facilitate collection and testing. Where residues are suspected or known to be present in litter from treated animals, it may be necessary to include data with respect to such residues becoming components of other agricultural commodities because of use of litter from treated animals.

(ii) If such drug is one which has been shown to induce cancer when ingested by man or animal or after other tests which are appropriate for the evaluation of the safety of such drug and the Secretary is requested to find that, under the conditions of use specified in the proposed labeling and reasonably certain to be followed in practice, such drug will not adversely affect the animals for which it is intended and that no residue of the drug will be found in any edible portion of such animals after slaughter or in any food yielded by or derived from the animal, methods of analysis shall be submitted in such form as to be suitable for publication in the FEDERAL REGISTER.

(iii) A description of practicable methods of adequate sensitivity to determine the amount of the new animal drug in the animal feed, water, and edible products shall be submitted.

(8) *Evidence to establish safety and effectiveness.* (i) An application may be refused unless it contains full reports of adequate tests by all methods reasonably applicable to show whether or not the new animal drug is safe and effective for use as suggested in the proposed labeling.

(ii) An application may be refused unless it includes substantial evidence, consisting of adequate and well-controlled investigations, including field investigation, by experts qualified by scientific training and experience to evaluate the effectiveness of the new animal drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the new animal drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling.

(iii) An application may be refused unless it contains detailed reports of the preclinical investigations, including studies made on laboratory animals, in which the purpose, methods, and results obtained are clearly set forth of acute, subacute, and chronic toxicity, and unless it contains any appropriate clinical laboratory studies related to safety and efficacy. Such information should include identification of the person who conducted each investigation, a statement of where the investigations were conducted, and where the raw data are available in the application.

(iv) An adequate and well-controlled investigation must satisfy the following criteria:

(*a*) A clear statement of the objective of the study is provided.

(*b*) The method of selection of the animals to be studied and those to serve as controls provides for:

(*1*) Adequate confirmation of the disease or clinical state present, including criteria of diagnosis and any appropriate confirmatory laboratory tests.

(*2*) Assignment of the animals and control groups to test under conditions which exclude or minimize bias.

(*c*) An outline and explanation of the methods of quantitation and observation of the parameters studied in the subjects.

(*d*) A description of the steps taken to document comparability of variables such as species, age, sex, duration, and severity of disease, management practices, and use of drugs other than those being studied.

(*e*) A description of the methods of recording and analyzing the animal response variables studied and the means of excluding bias or minimizing bias in the observations.

(*f*) A precise statement of the nature of the control group against which the effects of the new treatment modality can be compared. Three types of controlled comparisons are possible:

(*1*) Placebo control: The new animal drug entity may be compared quantitatively with an inactive placebo control. The level of blinding may affect the validity of the observations and comparisons.

(*2*) Active drug control: The new animal drug entity may be compared quantitatively with another drug or modality known to be effective.

(*3*) Historical control: In some circumstances involving diseases with high and predictable mortality or with signs and symptoms of predictable duration or severity, the results of use of a new animal drug entity may be compared quantitatively with prior experience historically derived from the adequately documented natural history of the disease in comparable animals with no treatment or with treatment with an established effective therapeutic regimen.

(*g*) A summary of statistical methods used in analysis of the data derived from the subjects.

Provided, however, that any of the above criteria in this subdivision (iv) may be waived in whole or in part, either prior to the investigation or in the evaluation of a completed study, by the Director of the Bureau of Veterinary Drugs with respect to a specific clinical investigation. A petition for such a waiver may be filed by any person who would be adversely affected by application of the criteria to a particular clinical investigation. The petition should show that some or all of the criteria are not reasonably applicable to the investigation and that alternative procedures can be or have been followed, the results of which will or have yielded data that can and should be accepted as substantial evidence of the drug's effectiveness. A petition for a waiver shall set forth clearly and concisely the specific provision or provisions in the criteria from which waiver is sought, why the criteria are not reasonably applicable to the particular clinical investigation, what alternative procedures, if any, are to be or have been employed, what results have been obtained, and the basis on which it can be or has been concluded that the clinical investigation will or has yielded substantial evidence of effectiveness, notwithstanding nonconformance with the criteria for which waiver is requested.

(*h*) Standardized test drug: For such an investigation to be considered adequate for consideration for approval of a new animal drug, the test drug must be standardized as to identity, strength, quality, purity, and dosage form to give significance to the results of the investigation.

Uncontrolled studies or partially controlled studies are not acceptable evidence to support claims of effectiveness. A study is uncontrolled when there is no comparison study against which to evaluate the treatment results, or when such experimental factors as disease identity are not controlled. A study is inadequately controlled when the criteria for animal selection are not adequately defined, investigator bias is not minimized, or an inadequately sensitive method of observation and evaluation of results is employed.

(v) All information pertinent to an evaluation of the safety and effectiveness of the drug received or otherwise obtained by the applicant from any source, including information derived from other investigations or commercial marketing (for example, outside the United States), or reports in the scientific literature, both favorable and unfavorable, involving the drug that is the subject of the application and related drugs shall be submitted. An adequate summary may be acceptable in lieu of a reprint of a published report that only supports other data submitted. Include any evaluation of the safety or effectiveness of the drug that has been made by the applicant's veterinary or medical department, expert committee, or consultants.

(vi) If the new animal drug is a combination of previously investigated or marketed new animal drugs, an adequate summary of preexisting information from preclinical and clinical investigation and experience with its components, including all reports received or otherwise obtained by the applicant suggesting side effects, contraindications, and ineffectiveness in use of such components, shall be submitted. Such summary should include an adequate bibliography of publications about the components and may incorporate by reference information concerning such components previously submitted by the applicant to the Food and Drug Administration. Each ingredient designated as active in any new animal drug combination must make a contribution to the effect in the manner claimed or suggested in the labeling, and, if in the absence of express labeling claims of advantages for the combination such a product purports to be better than either component alone, it must be established that the drug has that purported effectiveness.

(vii) An application shall include a complete list of the names and post office addresses of all investigators who received the drug. This may be incorporated in whole or in part by reference to information submitted under the provisions of § 135.3.

(viii) Explain any omission of reports from any investigator to whom the investigational drug has been made available. The unexplained omission of any reports of investigations made with the new animal drug by the applicant or submitted to him by an investigator or the unexplained omission of any pertinent reports of investigations or clinical experience received or otherwise obtained by the applicant from published literature or other sources that would bias an evaluation of the safety of the drug or its effectiveness in use constitutes grounds for the refusal or withdrawal of the approval of an application.

(9) *Antibiotic containing new animal drugs.* If the application is for an antibiotic drug subject to the certification provisions of section 512(n) of the act and the drug is included in regulations promulgated under section 507 of the act, the applicant may be exempted from the submission of some of the information required by subpagraph (8) of this paragraph if the application includes data adequate to prove that the drug is comparable to the drug for which certification has been previously provided.

(10) *Supplemental applications.* If it is a supplemental application, full information shall be submitted on each proposed change concerning any statement made in the approved application. Observe the provisions of § 135.13 concerning supplemental applications.

(11) *Applicant's commitment.* It is understood that the labeling and advertising for the new animal drug will prescribe, recommend, or suggest its use only under the conditions stated in the labeling which is part of this application; and if the article is a prescription drug, it is understood that any labeling which furnishes or purports to furnish information for use or which prescribes, recommends, or suggests a docage for use of the drug will also contain substantially the same information for its use including indications, effects, dosages, routes, methods and frequency and duration of administration, any relevant hazards, contraindications, side effects, and precautions contained in the labeling which is part of this application. It is understood that all representations in this application apply to the drug produced until an approved supplement to the application provides for a change or the applicant is notified in writing by the Food and Drug Administration that a supplemental application is not required for the change.

(12) *Additional commitments.* (i) All drug premixes, as defined in § 133.1 of this chapter, intended for use in the manufacture of animal feeds will be shipped only to persons who hold approved new animal drug applications for the finished product in accordance with § 135.6.

(ii) The methods, facilities, and controls described under item 5 of this application conform to the current good manufacturing practice regulations in Part 133 (21 CFR Part 133).

(13) *Assembling and binding the application.* Assemble and bind three copies of the original application as follows:

(i) Obtain folders from the Food and Drug Administration, Bureau of Veterinary Medicine, 5600 Fishers Lane, Rockville, Md. 20852, for binding triplicate copies of the new animal drug application. Approximately 2 inches of material may be bound in each folder.

(ii) Bind the original or ribbon copy of the application in a blue folder. This will be copy No. 1 and should be a complete copy.

(iii) Bind an identical copy in a red folder, copy No. 2, and an identical copy in a yellow folder, copy No. 3.

(iv) Identify each front cover with the name of the applicant and the name of the new animal drug.

(v) Use separate pages or sets of pages for each numbered heading consistent with subparagraphs (1) through (12) of paragraph (b) of this section. Number the pages of the new animal drug application. Each copy should bear the same page numbering.

(vi) The labeling should be distributed in the three copies of the application as follows: One set of labeling in copy No. 1, one set in copy No. 2, and one set in copy No. 3.

(vii) Submit separate applications for each different dosage form of the drug proposed. Repeating in each application basic information pertinent to all dosage forms is unnecessary if reference is made to the application containing such information. Include in each application information applicable to the specific dosage form, such as labeling, composition, stability data, and method of manufacture.

(viii) Forward amendments, supplements, reports, and other correspondence submitted after the original application in these folders and this format if they contain sufficient material. The front cover of these submissions should be identified with the name of the applicant, the name of the drug, and the new animal drug application number, if known.

§ 135.4b Applications for animal feeds bearing or containing new animal drugs.

Applications for animal feeds bearing or containing new animal drugs shall be submitted in triplicate on the Form FD-1800 6-68. Applications will be completed following the instructions printed on this form and will contain:

(a) A full statement of the composition of the animal feed. This requirement may be fulfilled by the declaration of the composition on the labeling submitted with the application.

(b) A statement that the proposed use of the drug described herein conforms to the applicable regulation published in accordance with § 135.11.

(c) A description of the methods used in and the facilities and controls used for the manufacturing, processing, and packing of the animal feed to show that they are adequate to insure the identity, strength, quality, and purity of the new animal drug therein. Applicants may be in compliance with this requirement if they have submitted this information in the past and there has been no change from that previously submitted.

(d) One copy of the final printed labeling attached to each copy of the FD-1800.

§ 135.5 Certification of new animal drugs containing any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or derivative thereof.

(a) *New animal antibiotic drugs subject to the provisions of section 512(n) of the act.* New animal antibiotic drugs that contain or purport to contain any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or derivative thereof shall conform to the regulations promulgated under section 512(n) of the act and to all requirements and procedures for certification or exemption from certification prescribed by applicable regulations promulgated under section 507 of the act.

(b) *New animal antibiotic drugs subject to the provisions of section 512(n)*

of the act and intended for use as components of animal feed. Penicillin, streptomycin, chlortetracycline, bacitracin, feed grade bacitracin, feed grade manganese bacitracin, feed grade zinc bacitracin, and bacitracin methylene disalicylate intended for use solely in the manufacture of one or more of the medicated animal feeds described in Part 135e or § 144.26 of this chapter, and conspicuously so labeled, shall be exempt from the certification requirements of section 512(n) of the act if its manufacturer, packer, or distributor:

(1) Holds an approved application for such drug submitted in accordance with the requirements of section 512(b) of the act; and

(2) Holds an effective permit from the Commissioner issued under the provisions of § 144.7 of this chapter authorizing shipment for manufacturing use to such establishment.

(c) *Animal feeds subject to the provisions of section 512(m) of the act and bearing or containing a new animal antibiotic drug subject to the provisions of section 512(n).* An animal feed that bears or contains or purports to bear or contain penicillin, streptomycin, chlortetracycline, or bacitracin, or any derivative thereof, shall conform with the requirements of Part 135e and § 144.26 of this chapter.

§ 135.6 Consignees of new animal drugs for use in the manufacture of animal feed.

A new animal drug intended for use in the manufacture of animal feed shall be deemed to be unsafe unless at the time of its removal from the establishment of a manufacturer, packer, or distributor of such drug, such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or a notice from the Secretary, to the effect that with respect to the use of such drug in animal feed the consignee:

(a) Is the holder of an approved application under § 135.4b; or

(b) Will, if the consignee is not a user of the drug, ship such drug only to a holder of an approved application under § 135.4b.

§ 135.7 Filing of applications; refusal to file applications.

(a) The date of receipt of an application for a new animal drug shall be the date on which the application shall be deemed to be filed.

(b) An application for a new animal drug shall not be considered acceptable for filing for any of the following reasons:

(1) It does not contain complete and accurate English translations of any pertinent part in a foreign language.

(2) Fewer than three copies are submitted.

(3) It is incomplete on its face in that it is not properly organized and indexed or it does not contain all the information in the form and detail required by section 512(b) of the act.

(4) On its face the information concerning required matter is so inadequate that the application is clearly not approvable.

(5) The drug is to be manufactured, prepared, propagated, compounded, or processed in whole or in part in any State in an establishment that has not been registered or exempted from registration under the provisions of section 510 of the act.

(6) The sponsor does not reside or maintain a place of business within the United States and the application has not been countersigned by an attorney, agent, or other representative of the applicant, which representative resides in the United States and has been duly authorized to act on behalf of the applicant and to receive communications on all matters pertaining to the application.

(7) The new animal drug is a drug subject to licensing under the animal virus, serum, and toxin law of March 4, 1913 (37 Stat. 832; 21 U.S.C. 151 et seq.). Such applications will be referred to the U.S. Department of Agriculture for action.

(c) If an application is determined not to be acceptable for filing, the sponsor of the application shall be promptly notified and given the reasons therefor.

(d) If the sponsor of the application disputes the findings that his application is not acceptable for filing, he may make written request that the application be filed over protest in which case it will be filed.

§ 135.8 Evaluation and comment on applications.

(a) After the filed application has been evaluated, the sponsor will be furnished written comment on any apparent deficiencies in the application.

(b) When the description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug appears adequate on its face, but it is not feasible to reach a conclusion as to the safety and effectiveness of the drug solely from consideration of this description, the applicant may be notified that as establishment inspection is required to verify their adequacy.

(c) When the Commissioner requests samples of a new animal drug or any edible tissues and byproducts of animals treated with such a drug, he shall specify in his request a quantity deemed adequate to permit tests of analytical methods to determine their adequacy for regulatory purposes. The date used for computing 180-day limit for the purposes of section 512(c) of the act shall be moved forward 1 day for each day after the mailing date of the request until sample is received. If the samples are requested a reasonable time prior to the 180 days but are not submitted within such 180 days after the filing of the application, the application will be considered withdrawn without prejudice.

(d) The information contained in an application may be insufficient to determine whether a drug is safe or effective in use if it fails to include (among other things) a statement showing whether the drug is to be limited to prescription sale and exempt under section 502(f)(1) of the act from the requirement that its labeling bear adequate directions for lay use. If the drug is to be exempt, the information may also be insufficient if:

(1) The specimen labeling proposed fails to bear adequate information for professional use including indications, effects, dosages, routes, methods and frequency and duration of administration and any relevant hazards, contraindications, side effects, and precautions under which practitioners licensed by law to administer the drug can use the drug for the purposes for which it is intended, including all purposes for which it is to be advertised, or represented, in accordance with §1.106(c) of this chapter, and information concerning hazards, contraindications, side effects, and precautions relevant with respect to any uses for which the drug is to be prescribed.

(2) The application fails to show that the labeling and advertising of the drug will offer the drug for use only under those conditions for which it is offered in the labeling that is part of the application.

(3) The application fails to show that all labeling that furnishes or purports to furnish information for professional use of the drug will contain the same information for use, including indications, effects, dosages, routes, methods, and frequency and duration of administration and any relevant hazards, contraindications, side effects, and precautions, which is contained in the labeling that is part of the application in accordance with § 1.106(c) of this chapter.

(e) The information contained in an application will be considered insufficient to determine whether a drug is safe and effective for use when there is a refusal or failure upon written notice to furnish inspectors authorized by the Food and Drug Administration an adequate opportunity to inspect the facilities, controls, and records pertinent to the application.

(f) On the basis of preliminary consideration of an application or supplemental application containing typewritten or other draft labeling in lieu of final printed labeling, a sponsor may be informed that such application is approvable when satisfactory final printed labeling identical in content to such draft copy is submitted.

(g) When an application has been found incomplete on the basis of information required by this section, such application shall be considered withdrawn without prejudice to future filing on the date of issuance of the letter citing the inadequacies contained in the application, unless within the 30 days the sponsor chooses to avail himself of the opportunity for hearing as prescribed by § 135.12.

§ 135.9 Amended applications.

The sponsor may submit an amendment to an application that is pending, but in the case of a substantive amendment the unamended application may be considered as withdrawn and the amended application may be considered resubmitted on the date on which the

amendment is received by the Food and Drug Administration. The sponsor will be notified of such date.

§ 135.10 Withdrawal of applications without prejudice.

The sponsor may withdraw his pending application from consideration as a new animal drug application upon written notification to the Food and Drug Administration. Such withdrawal may be made without prejudice to a future filing. Upon resubmission, the time limitation will begin to run from the date the resubmission is received by the Food and Drug Administration. The application will be retained by the Food and Drug Administration although it is considered withdrawn. The sponsor shall be furnished a copy at cost on request.

§ 135.11 Approval of applications.

(a) If within 180 days after an application has been filed, the Commissioner determines that none of the grounds for denying approval specified in section 512(d) of the act applies:

(1) He shall forward for publication in the FEDERAL REGISTER a regulation prescribing the conditions under which the new animal drug may be used, including the name and address of the applicant, the conditions and indications for use covered by the application, any tolerance withdrawal period, or other use restrictions, any tolerance required for the new animal drug substance or its metabolites in edible products of food-producing animals and, if such new animal drug is intended for use in animal feed, appropriate purposes and conditions of use (including special labeling requirements) applicable to any animal feed, and such other information the Commissioner deems necessary to assure safe and effective use.

(2) He shall notify the sponsor of the application by sending him a copy of the proposed publication as described in subparagraph (1) of this paragraph.

(b) If within 90 days after an application filed pursuant to § 135.4b the Commissioner determines that none of the grounds for denying approvals specified in section 512(m)(3) of the act applies, he shall notify the sponsor of the application that it is approvable by signing and mailing to the sponsor the original copy of the FD–1800.

§ 135.12 Refusal to approve applications.

(a) If the Commissioner determines upon the basis of the application, or upon the basis of other information before him with respect to a new animal drug, that:

(1) The report of investigation required to be submitted pursuant to section 512(b) of the act does not include adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; or

(2) The results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; or

(3) The methods used in and the facilities and controls used for, the manufacture, processing, and packing of such drugs are inadequate to preserve its identity, strength, quality, and purity; or

(4) There is insufficient information to determine whether such drug is safe for use under such conditions. In making this determination the Commissioner shall consider, among other relevant factors:

(i) The probable consumption of such drug and of any substances formed in or on food because of the use of such drug; and

(ii) The accumulative effect on man or animal of such drug, taking into account any chemically or pharmacologically related substances; and

(iii) Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of such drugs, are appropriate for the use of animal experimentation data; and

(iv) Whether the conditions of use prescribed, recommended, or suggested in the proposed labeling are reasonably certain to be followed in practice; or

(5) There is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

(6) The tolerance limitation proposed, if any, exceeds that reasonably expected from the proposed use of the drug; or

(7) Based on a fair evaluation of all material facts, the labeling is false or misleading in any particular; or

(8) Such drug induces cancer when ingested by man or animal or, after appropriate tests for evaluation of the safety of such drug, induces cancer in man or animal, except that this subparagraph shall not apply with respect to such drug if the Commissioner finds that, under the conditions of use specified in proposed labeling and reasonably certain to be followed in practice, (i) such drug will not adversely affect the animal for which it is intended and (ii) no residue of such drug will be found (by methods of examination prescribed or approved by the Commissioner by regulations) in any edible portion of such animal after slaughter or in any food yielded by or derived from the living animals;

the Commissioner shall within 180 days after the filing of the application inform the sponsor in writing of his intention to issue a notice of opportunity for a hearing on a proposal to refuse to approve the application.

(b) If the Commissioner determines upon the basis of the application, or upon the basis of other information before him with respect to an animal feed bearing or containing a new animal drug, that:

(1) There is not in effect a regulation established pursuant to section 512(i) of the act (identified in such application) on the basis of which such application may be approved; or

(2) Such animal feed (including the proposed use of any new animal drug therein or thereon) does not conform to an applicable regulation published pursuant to section 512(i) of the act (identified in such application) or that the purposes or conditions or indications of use prescribed, recommended or suggested in the labeling of such feed do not conform to the applicable purposes and conditions or indications for use (including warnings) published pursuant to section 512(i) of the act or such labeling omits or fails to conform to other applicable information published pursuant to such section; or

(3) The methods used in and the facilities and controls used for the manufacturing, processing, and packaging of such animal feed are not adequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

(4) Based on a fair evaluation of all the material facts, such labeling is false or misleading in any particular;

the Commissioner shall within 90 days after the filing of the application inform the sponsor in writing of his intention to issue a notice of opportunity for a hearing on a proposal to refuse to approve the application.

(c) Unless by the 30th day following the date of issuance of the letter informing the applicant of the intention to issue a notice of opportunity for a hearing, the sponsor:

(1) Withdraws the application; or

(2) Waives the opportunity for a hearing; or

(3) Agrees with the Commissioner on an additional period to precede issuance of such notice of hearing;

the Commissioner shall expeditiously notify the applicant of an opportunity for a hearing on the question of whether such application is approvable, as provided in § 135.15.

§ 135.13 Supplemental applications.

(a) (1) After an application is approved, a supplemental application may propose changes. A supplemental application may omit statements made in the approved application concerning which no change is proposed. Each supplemental application shall include up-to-date reports of any of the kinds of information required by § 135.14(a) that has not previously been submitted as part of the application, including such submission under the records and reports requirements of § 135.14.

(2) A supplemental application shall be submitted for any change beyond the variations provided for in the application, including changes in the scale of production such as from pilot-plant to production batch, that may alter the conditions of use, the labeling, safety, effectiveness, identity, strength, quality, or purity of the drug, or the adequacy of the manufacturing methods, facilities, or controls to preserve them.

(3) Any mailing or promotional piece used after the drug is placed on the market is labeling requiring a supplemental application, unless (i) the parts of the labeling furnishing directions, warnings, and information for use of the drug are the same in language and emphasis as labeling approved or permitted and (ii) any other parts of the labeling are consistent with and not contrary to such approved or permitted labeling.

(4) The supplemental application shall be submitted as follows—A communication proposing a change in a new animal drug application should provide for any one of the following kinds of changes:

(i) Revision in labeling, such as updating information pertaining to effects, dosages, and side effects and contraindications, which includes information headed side effects, warnings, precautions, and contraindications.

(ii) Addition of claim.

(iii) Revision in manufacturing or control procedures; for example, changes in components, composition, method of manufacture, analytical control procedures, package or tablet size, etc.

(iv) Change in manufacturing facilities.

(v) Provision for outside firm to participate in the preparation, distribution, or packaging of a new animal drug (new distributor, packer, supplier, manufacturer, etc.); one firm per submission.

Any number of changes may be submitted at any one time; but if they fall into different categories as listed in subdivisions (i) through (v) of this subparagraph, the proposed changes should be covered by separate communications. Where, however, a change necessitates an overlap in categories, it should be submitted in a single communication. For example, a change in tablet potency would require other changes such as in components, composition, and labeling and should be submitted in a single communication.

(5) The following changes may be placed into effect without the approval of a supplemental application, except in the case of new animal drugs subject to certification under provisions of the act, if such change is fully described in the next periodic report required under § 135.14 (b)(4) or, when such a report is not required, in a written communication to the Food and Drug Administration within 60 days of the effective date of the change (this does not apply to a change proposed because of any mixup or any bacteriological or significant chemical, physical, or other change or deterioration in the drug or any failure of one or more distributed batches of the drug to meet its specifications):

(i) A different container size for solid oral dosage forms where container and closure are of the same materials as those provided for in the approved application.

(ii) Change in personnel not involving new facilities.

(iii) Change in equipment that does not alter the method of manufacture of a new animal drug substance or dosage form of a new animal drug.

(iv) Change from one commercial batch size to another without any change in manufacturing procedure.

(v) Change to more stringent specification without altering the method described in the approved application.

(vi) Inclusion of additional specifications and methods without deletion of those described in the approved application.

(vii) Alteration of specifications or methods for inactive ingredients to bring them into compliance with new or revised specifications or methods in an official compendium.

(viii) Initiation of a product identification coding system.

(ix) Addition to labeling of a reasonable expiration date where none was previously used, with related conditions of drug storage when appropriate, except when evidence shows that a significant deterioration of the drug under marketing conditions has occurred which necessitates the immediate submission of a report under § 135.14(b)(1). The report or written communication describing such change in labeling should include stability data justifying the expiration date and recommended conditions of storage.

(x) Change from paper labels to direct printing on glass containers without a change in text.

(6) Approval of a supplemental application, except in the case of new animal drugs subject to certification under the provisions of section 512(n) of the act, will not be required to provide for an additional distributor to distribute a drug which is the subject of an approved new animal drug application if the conditions described below are met prior to putting such a change into effect. An order may issue refusing approval if any condition is not met or if any of the reasons for refusing or withdrawing approval, as stated in section 512 (d) and (e) of the act or § 135.7 applies. For the purposes of maintaining records and making reports under the requirements of § 135.14, a distributor provided for under this section shall be considered an "applicant" within the meaning of § 135.14(b). Said conditions are:

(i) A supplemental application is furnished to the Food and Drug Administration to provide for a designated distributor.

(ii) There are no changes from the conditions of the approved application except for a different and suitable proprietary name of the drug (if one is used) and the name and address of the distributor as used on the label and labeling. The name of the distributor shall be accompanied by an appropriate qualifying phrase such as "manufactured for" or "distributed by."

(iii) A distributor's statement is furnished to the Food and Drug Administration identifying the category of his operations (for example, wholesaler, retailer) and stating: That he will distribute the drug only under the labeling provided for in the new animal drug application; that any other labeling or advertising for the drug will prescribe, recommend, or suggest its use only under the conditions stated in the labeling provided for in the application; and, if the drug is a prescription article, that he is regularly and lawfully engaged in the distribution or dispensing of prescription drugs.

(iv) Twelve copies of the printed labels and other labeling to be used by the distributor are submitted, identified with the new animal drug application number.

(b) When necessary for the safety or effectiveness of the drug, a supplemental application shall specify a period of time within which the proposed change will be made.

(c) If a material change is made in the components' composition, manufacturing methods, facilities, or controls, or in the labeling or advertising, from the representations in an approved application for a new animal drug (except changes conforming to the conditions set forth in paragraph (a) (5) and (6) and/or paragraphs (d), (e), (f), and (g) of this section), and the drug is marketed before a supplement is approved for such change, approval of the application may be suspended or withdrawn as provided in section 512(e) of the act.

(d) Changes of the following kinds proposed in supplemental new animal drug applications should be placed into effect at the earliest possible time:

(1) The addition to package labeling, promotional labeling, and prescription drug advertising of additional warning, contraindication, side-effect, and precaution information.

(2) The deletion from package labeling, promotional labeling, and drug advertising of false, misleading, or unsupported indications for use or claims for effectiveness.

(3) Changes in the methods, facilities, or controls used for the manufacture, processing, packing, or holding of the drug (other than utilization of establishments not covered by the approval that is in effect) that give increased assurance that the drug will have the characteristics of identity, strength, quality, and purity which it purports or is represented to possess.

(e) The Food and Drug Administration will take no action against a drug or applicant solely because changes of the kinds described in paragraph (d) of this section are placed into effect by the applicant prior to his receipt of a written notice of approval of the supplemental new animal drug application if all the following conditions are met:

(1) The supplemental new animal drug application providing a full explanation of the basis for the changes has been submitted, plainly marked on the mailing cover and on the supplement "Special new animal drug application supplement—changes being effected."

(2) The applicant specifically informs the Food and Drug Administration of the date on which such changes are being effected and submits to the Administration 12 printed copies of any revised labeling to be placed in use, identified with the new animal drug application number.

(3) All promotional labeling and all drug advertising are promptly revised

consistent with the changes made in the labeling on or within the drug package.

(f) When a supplemental application proposes changes only of the kinds described in paragraph (d) of this section, and the applicant informs the Food and Drug Administration that the changes are being put into effect, such notification will be regarded as an agreement by the applicant to an extension of the time for formal action on the application.

(g) In addition to changes as permitted by paragraphs (d) and (e) of this section, an applicant may place into effect changes proposed in a supplement to a new animal drug application that became effective prior to October 10, 1962, upon written notification from the Food and Drug Administration that such action is permitted, without approval of the supplemental application, pending the completion of the review of the effectiveness of such drug by the National Academy of Sciences-National Research Council and a determination as to whether there are grounds for refusing approval under section 512(d) of the act or for invoking section 512(e). The Food and Drug Administration will take no action against a drug or an applicant solely because changes that have been permitted in a written communication are placed into effect by the applicant prior to his receipt of a written notice of approval of the supplemental new animal drug application.

(h) Except as provided in paragraphs (e) and (g) of this section, no provision of this section shall limit the authority of the Secretary or of the Commissioner to suspend or withdraw approval of a new animal drug application in accord with the provisions of section 512(e) of the act or to initiate any other regulatory proceedings with respect to a drug or applicant under provisions of the act.

(i) Changes from the conditions of an approved new animal drug application in accord with the provisions of paragraphs (d), (e), and (g) of this section are permitted on the basis of a temporary deferral of final action on the supplemental application under the provisions of section 512 (c), (d), or (e) of the act.

(j) When an applicant receives written notification from the Food and Drug Administration, under the provisions of paragraph (g) of this section, that he may place into effect changes proposed in a supplemental application without approval of the supplemental application, he may within 30 days submit a written request that the Food and Drug Administration process the supplemental application. In such case, the change shall not be put into effect until approved. Within 180 days of the receipt of such written request, the Food and Drug Administration will approve the supplemental application or furnish notice of an opportunity for a hearing under the provisions of section 512(d) or (e), or both, of the act on a proposal to refuse approval of the supplemental application or to withdraw approval of the application and supplements thereto.

(k) A supplement to an application that became effective prior to October 10, 1962, may include a written statement to the effect that a temporary deferral of final action under the provisions of paragraphs (d), (e), or (g) of this section is unacceptable to the applicant and that the applicant requests action as provided in section 512(c) of the act. Final action on such supplemental applications will be expedited in accord with applicable provisions of section 512 of the act and regulations in this Part 135. In such cases, if the applicant places into effect any of the proposed changes prior to his receipt of a written notice of approval of the supplemental new animal drug application, such action may be regarded by the Food and Drug Administration as a basis for invoking the provisions of section 512(e)(1)(D) of the act; that is, the applicant may be furnished notice of an opportunity for a hearing on a proposal to withdraw approval of the application on the ground that the application contains an untrue statement of a material fact related to the changes from the conditions approved in the application.

§ 135.14 Records and reports concerning experience with new animal drugs for which an approval is in effect.

(a) On receiving notification that an application submitted pursuant to § 135.4 for a new animal drug is approved, the applicant shall establish and maintain such records and make such reports as are specified in this section to facilitate a determination as to whether there may be grounds for suspending or withdrawing approval of the application or whether any applicable regulation should be amended or repealed. The applicant shall maintain adequately organized and indexed files containing full reports of information pertinent to the safety or effectiveness of the drug that have not previously been submitted as part of his application for the drug and which are received or otherwise obtained by him from any source, as follows:

(1) Unpublished reports of clinical or other animal experience, studies, investigations, and tests conducted by the applicant or reported to him by any person involving the drug that is the subject of the application or any related drugs. An adequate summary and bibliography of reports in the scientific literature would ordinarily suffice. (The application must identify at the time of each report submission, each drug he considers related to the subject drug.)

(2) Experience, investigations, studies, or tests involving the chemical or physical properties or any other properties of the drug, such as its behavior or properties in relation to micro-organisms, including both the effects of the drug on micro-organisms and the effect of micro-organisms on the drug.

(3) For information required by this section, adequate identification of its source, when known, including the name and post office address of the person who furnishes such information.

(4) Copies of all mailing pieces and other labeling and, if it is a prescription drug, all advertising other than that contained in the application used in promoting the drug, and copies of the currently used package labeling that gives full information for use of the drug whether or not such labeling is contained in the application.

(5) Information concerning the quantity of the drug distributed in a manner and form that facilitates estimates of the incidence of any adverse effects reported to be associated with the use of the drug. This does not require disclosure of financial data.

(6) Information concerning any previously unreported changes from the conditions described in an application conforming to the conditions of § 135.13(a)(5).

(b) The applicant shall submit to the Food and Drug Administration copies of the records and reports described in paragraph (a) of this section (except routine assay and control records), appropriately identified with the application(s) to which they relate, as follows:

(1) Immediately upon the receipt by the applicant, complete records or reports covering information of the following kinds:

(i) Information concerning a mixup in the drug or its labeling with another article.

(ii) Information concerning any bacteriological or significant physical or other change or deterioration in the drug, or any failure of one or more distributed batches of the drug to meet the specifications established for it in the new animal drug application.

(2) As soon as possible, and in any event within 15 working days of its receipt by the applicant, complete records of reports concerning any information of the following kinds:

(i) Information concerning any unexpected side effects, injury, toxicity, or sensitivity reaction or any unexpected incidence or severity thereof associated with clinical use, studies, investigations, or tests, whether or not determined to be attributable to the drug, except that this requirement shall not apply to the submission of information described in a written communication to the applicant from the Food and Drug Administration as types of information that may be submitted at other designated intervals. "Unexpected" as used in this subdivision refers to conditions or developments not previously submitted as part of the application, or conditions and developments occurring at a rate higher than that shown by information previously submitted as part of the application.

(ii) Information concerning any unusual failure of the drug to exhibit its expected pharmacological activities.

(3) When mailing pieces, any other labeling, and advertising are devised for promotion of the drug, specimens shall be submitted at the time of initial dissemination of such labeling and at the time of initial publication of any advertisement for a prescription drug. Mailing pieces and labeling designed to contain samples of a drug shall be complete except for the omission of the drug.

(4) All the kinds of information described in paragraph (a) of this section, other than that submitted under the provisions of subparagraphs (1), (2), and (3) of this paragraph, shall be submitted as follows unless otherwise ordered in

a written communication from the Commissioner:

(i) At intervals within 6 months beginning with the date of approval of the application during the first year following such date, and at yearly intervals thereafter.

(ii) Whenever an applicant is required to submit reports under the provisions of subdivision (i) of this subparagraph with respect to more than one approved application for preparations containing the same drug so that the same item(s) of information is(are) required to be reported for more than one application, he may elect to submit as a part of the report for one such application all the information, to such applications in lieu of reporting separately and repetitively on each. The applicant shall state when this is done and identify all the applications for which the reports are submitted.

(iii) The submitted copies of records and reports shall include all the required information that was received or otherwise obtained by the applicant during the designated intervals.

(5) On written order of the Commissioner, within the time stated in such order or agreed to by the applicant and the Commissioner, any designated records or reports containing the kinds of information described in this section shall be submitted.

(c) The applicant shall upon request of any properly authorized officer or employee of the Department, at reasonable times, permit such officers to have access to and copy and verify any records and reports established and maintained under the provisions of this section.

(d) If the Food and Drug Administration finds that the applicant has failed to establish a system for maintaining required records or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with the provisions of this section, or that the applicant has refused to permit access to, copying of, or verification of such records or reports, the Commissioner shall give the applicant notice and opportunity for a hearing on the question of whether to withdraw the approval of the application, as provided in § 135.15.

(e) Upon written request of the applicant stating reasonable grounds therefor, the Commissioner will make available any information in possession of the Food and Drug Administration of the kinds the applicant is required to maintain under the provisions of this section, except information readily available to the applicant from other sources or information which the Commissioner concludes is confidential.

(f) The "applicant" required to establish and maintain records and make reports required by this section includes any person whose name appears on the labeling of the drug as its manufacturer, packer, or distributor under an approval or who is engaged in the manufacturing, processing, packing, or labeling of the drug under an approval of the application or any supplement to it; however, to avoid unnecessary duplication in the submission of reports, any such applicant's obligation to submit a report may be met by its submission on his behalf, designated as such, by another person responsible for reporting.

§ 135.15 Contents of notice of hearing.

(a) The notice to the applicant of opportunity for a hearing on a proposal by the Commissioner to refuse to approve an application or to withdraw the approval of an application will specify the grounds upon which he proposes to issue his order. On request of the applicant, the Commissioner will explain the reasons for his action. The notice of hearing will be published in the FEDERAL REGISTER and will specify that the applicant has 30 days after issuance of the notice within which he is required to file a written appearance electing whether:

(1) To avail himself of the opportunity for a hearing; or

(2) Not to avail himself of the opportunity for a hearing.

(b) If the applicant elects to avail himself of the opportunity for a hearing, he is required to file a written appearance requesting the hearing within 30 days after the publication of the notice, giving the reason why the application should not be refused or should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition to the Commissioner's proposal. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and a factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the refusal to approve the application or the withdrawal of approval of the application (for example, no adequate and well-controlled clinical investigations to support the claims of effectiveness have been identified), the Commissioner will enter an order on this data, making findings and conclusions on such data. If a hearing is requested and is justified by the applicant's response to the notice of opportunity for a hearing, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the applicant otherwise agree.

(c) The hearing will be open to the public; however, if the Commissioner finds that portions of the application which serve as a basis for the hearing contain information concerning a method or process entitled to protection as a trade secret, the part of the hearing involving such portions will not be public unless the respondent so specifies in his appearance.

§ 135.16 Failure to file an appearance.

If the applicant fails to file a written appearance in answer to the notice of opportunity for a hearing, his failure will be construed as an election not to avail himself of the opportunity for the hearing, and the Commissioner without further notice may enter a final order.

§ 135.17 Appearance of applicant.

If the applicant elects to avail himself of the opportunity for the hearing, he may appear in person or by counsel. If the applicant desires to be heard through counsel, the counsel will file with the hearing examiner a written appearance.

§ 135.18 Hearing examiner.

The hearing will be conducted by a hearing examiner appointed as provided in 5 U.S.C., § 3105, and designated for conducting the hearing. Any such designation may be made or revoked by the Commissioner at any time. Hearings will be conducted in an informal but orderly manner in accordance with these regulations and the requirements of the administrative procedure provisions of 5 U.S.C. The hearing examiner will have the power to administer oaths and affirmations, to rule upon offers of proof and the admissibility of evidence, to receive relevant evidence, to examine witnesses, to regulate the course of the hearing, to hold conferences for the simplification of the issues, and to dispose of procedural requests, but will not have the power to decide any motion that involves final determination of the merits of the proceeding.

§ 135.19 Prehearing and other conferences.

The hearing examiner, on his own motion or on the motion of the applicant or the Food and Drug Administration, may direct all parties or their representatives to appear at a specified time and place for a conference to consider:

(a) The simplification of the issues.

(b) The possibility of obtaining stipulations, admissions of facts, and documents.

(c) The limitation of the number of expert witnesses.

(d) The scheduling of witnesses to be called.

(e) The advance submission of all documentary evidence.

(f) Such other matters as may aid in the disposition of the proceeding.

The hearing examiner shall make an order: Reciting the action taken at the conference, the agreements made by the parties or their representatives, and the schedule of witnesses for the hearing; and limiting the issues for the hearing to those not disposed of by admissions or agreements. Such order will control the subsequent course of the proceeding unless modified for good cause by subsequent order. The hearing examiner may also direct all parties and their representatives to appear at conferences at any time during the hearing with a view

to simplifying, clarifying, or shortening the hearing.

§ 135.20 Submission of documentary evidence in advance.

(a) All documentary evidence to be offered at the hearing shall be submitted to the hearing examiner and to the parties sufficiently in advance of the offer of such documentary evidence for introduction into the record to permit study and preparation of cross-examination and rebuttal evidence.

(b) The hearing examiner after consultation with the parties at a conference called in accordance with § 135.19 shall make an order specifying the time at which documentary evidence shall be submitted. He shall also specify in his order the time within which objections to the authenticity of such documents must be made to comply with paragraph (d) of this section.

(c) Documentary evidence not submitted in advance in accordance with the requirements of paragraphs (a) and (b) of this section shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner.

(d) The authenticity of all documents submitted in advance shall be deemed admitted unless written objection thereto is filed with the hearing examiner upon notice to the other parties within the time specified by the hearing examiner in accordance with paragraph (b) of this section, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

§ 135.21 Excerpts from documentary evidence.

When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts so prepared and submitted shall be received in the record; however, the whole of the original document shall be made available for examination and for use by opposing counsel for purposes of cross-examination.

§ 135.22 Submission and receipt of evidence.

(a) Each witness, before proceeding to testify, shall be sworn or make affirmation.

(b) When necessary in order to prevent undue prolongation of the hearing, the hearing examiner may limit the number of times any witness may testify, the repetitious examination and cross-examination of witnesses, or the amount of corroborative or cumulative evidence.

(c) The hearing examiner shall admit only evidence that is relevant, material, and not unduly repetitious.

(d) Opinion evidence shall be admitted when the hearing examiner is satisfied that the witness is properly qualified.

(e) If any person objects to the admission or rejection of any evidence, or other limitation of the scope of any examination or cross-examination, he shall state briefly the grounds for such objection, and the transcript shall not include extended argument or debate thereon except as ordered by the hearing examiner. A ruling on any such objection, together with such offer of proof as has been made, shall be a part of the transcript.

§ 135.23 Transcript of testimony.

Testimony given at a hearing shall be reported verbatim. All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall be marked for identification and, upon a showing satisfactory to the hearing examiner of their authenticity, relevancy, and materiality, shall be received in evidence subject to the provisions of 5 U.S.C., § 556(d). Exhibits shall, if practicable, be submitted in quintuplicate. In case the required number of copies are not made available, the hearing examiner shall exercise his discretion as to whether said exhibit shall be read in evidence or whether additional copies shall be required to be submitted within a time to be specified by the hearing examiner. Where the testimony of a witness refers to a statute, report, or document, the hearing examiner shall, after inquiry relating to the identification of such statute, report, or document, determine whether the same shall be produced at the hearing and physically be made a part of the evidence or shall be incorporated in the record by reference. Where relevant and material matter offered in evidence is embraced in a report or document containing immaterial and irrelevant matter, such immaterial and irrelevant matter shall be excluded and shall be segregated insofar as practicable, subject to the direction of the hearing examiner.

§ 135.24 Oral and written arguments.

(a) Unless the hearing examiner shall issue an announcement at the hearing authorizing oral argument before him, it shall not be permitted.

(b) The hearing examiner shall announce at the hearing a reasonable period within which the parties or their representatives may file written arguments based solely upon the evidence received at the hearing, citing the pages of the transcript of the testimony or of properly identified exhibits where such evidence occurs.

§ 135.25 Tentative order.

The hearing examiner within a reasonable time shall prepare tentative findings of fact and a tentative order, which shall be served upon the applicant and the Food and Drug Administration or sent to them by certified mail. If no exceptions are taken to the tentative order within 20 days or such other time specified in such order, that order shall become final in accordance with § 135.27.

§ 135.26 Exceptions to the tentative order.

Within 20 days or such other time specified in the tentative order, the applicant or the Food and Drug Administration may transmit exceptions to the hearing examiner, together with any briefs or argument in support thereof. If exception is taken to any tentative findings of fact, reference must be made to the pages or parts of the record relied upon, and a corrected finding of fact must be submitted. The applicant, if he files exceptions, shall state in writing whether he desires to make an oral argument.

§ 135.27 Issuance of final order.

Within a reasonable time after the filing of exceptions (if any), or after oral argument (if such argument is requested), the Commissioner shall issue the final order in the proceeding. The order will include the findings of fact upon which it is based.

§ 135.28 Withdrawal of approval of an application.

(a) The Secretary will suspend approval of an application and give the applicant prompt notice of his action and afford the applicant the opportunity for an expedited hearing on a finding that there is an imminent hazard to the health of man or of the animals for which such drug is intended.

(b) The Commissioner shall notify in writing the person holding an approved application and afford an opportunity for a hearing on a proposal to withdraw approval of such application if:

(1) In the case of an application approved for use of a new animal drug he finds:

(i) That experience or scientific data show that such drug is unsafe for use under the conditions of use upon the basis of which the application was approved; or

(ii) That new evidence (which includes a reevaluation of clinical experience both prior and subsequent to approval of the application) not contained in such application was not available to the Commissioner until after such application was approved, or tests by new methods or tests by methods not deemed reasonably applicable when such application was approved, evaluated together with the evidence available to the Commissioner when the application was approved, shows that such drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved, or that the cancer clause of section 512(d)(1)(H) of the act applies to such drug; or

(iii) That on the basis of new information before him with respect to such drug, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that such drug will have the effect it purports or is

represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof; or

(iv) That the application contains any untrue statement of a material fact; or

(v) That the applicant has made any changes from the standpoint of safety and effectiveness beyond the variations provided for in the application, unless he has supplemented the application by filing with the Commissioner adequate information respecting all such changes and unless there is in effect an approval of the supplemental application; or

(vi) That the applicant has failed to establish and maintain required records or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with section 512 of the act or regulations thereunder, or the applicant has refused to permit access to or copying or verification of such records as required; or

(vii) That on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the methods used in or the facilities and controls used for the manufacture, packing, or processing of such drug are inadequate to assure and preserve its identity, strength, quality, and purity and were not made adequate within the time specified after receipt of written notice from the Commissioner specifying the matter complained of; or

(viii) That on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the labeling of such drug, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within the time specified after receipt of written notice from the Commissioner specifying the matter complained of.

(2) In the case of an application approved for use of an animal feed bearing or containing a new animal drug if the Commissioner finds:

(i) That the application contains any untrue statement of a material fact; or

(ii) That the applicant has made any changes from the standpoint of safety or effectiveness beyond the variations provided for in the application, unless he has supplemented the application by filing with the Commissioner adequate information respecting all such changes and unless there is in effect an approval of the supplemental application; or

(iii) That the applicant has failed to establish and maintain required records or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with section 512 of the act or regulations thereunder, or the applicant has refused to permit access to or copying or verification of such records as required; or

(iv) That on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the methods used in or the facilities and controls used for the manufacture, processing, and packing of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein and were not made adequate within a reasonable time after receipt of written notice from the Commissioner specifying the matter complained of; or

(v) That on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the labeling of such animal feed, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Commissioner specifying the matter complained of:

(c) Approval of an application will be withdrawn on the basis of a request for its withdrawal submitted in writing by a person holding an approved new animal drug application on the ground that the drug subject to such application is no longer being marketed and information is included in support of this finding, provided none of the conditions cited in paragraph (a) of this section pertain to the subject drug. A written request for such withdrawal shall be construed as a waiver of the opportunity for a hearing as otherwise provided for in this section. Withdrawal of approval of an application under the provisions of this paragraph shall be without prejudice.

(d) On the basis of the withdrawal of approval of an application for a new animal drug, the regulation published pursuant to section 512(i) of the act covering the conditions of use of such drug as provided for in the application shall be revoked. An approved application providing for the manufacture of animal feeds bearing or containing such drug shall be deemed as withdrawn upon publication in the FEDERAL REGISTER of the order revoking the corresponding regulation.

§ 135.29 Revocation of order refusing to approve an application, or suspending or withdrawing approval of an application.

The Commissioner, upon his own initiative or upon request of an applicant stating reasonable grounds therefor and if he finds that the facts so require, may issue an order approving an application that previously has had its approval refused, suspended, or withdrawn.

§ 135.30 Service of notices and orders.

All notices and orders under this Part 135 and section 512 of the act pertaining to new animal drug applications shall be served:

(a) In person by any officer or employee of the Department designated by the Commissioner; or

(b) By mailing the order by certified mail addressed to the applicant or respondent at his last known address in the records of the Food and Drug Administration.

§ 135.31 Untrue statements in applications.

Among the reasons why an application may contain an untrue statement of fact are:

(a) Differences in:

(1) Conditions of use prescribed, recommended, or suggested by the applicant for the drug from the conditions of such use stated in the application;

(2) Articles used as components of the drug from those listed in the application;

(3) Composition of the drug from that stated in the application;

(4) Methods used in or the facilities and controls used for the manufacture, processing, or packing of the drug from such methods, facilities, and controls described in the application;

(5) Labeling from the specimens contanied in the application; or

(b) The unexplained omission in whole or in part from the original application or any amendment or supplement to it, or from any record or report required under the provisions of section 512 of the act and § 135.14, of any information obtained from (1) investigations as to the safety, effectiveness, identity, strength, quality, or purity of the drug made by the applicant on the drug or (2) investigations or experience with the drug that is the subject of the application, or any related drug, available to the applicant from any source if such information is pertinent to an evaluation of the safety, effectiveness, identity, strength, quality, or purity of the drug, when such omission would bias an evaluation of the saftey or effectiveness of the drug.

§ 135.32 Judicial review.

The General Counsel of the Department of Health, Education, and Welfare is hereby designated as the officer upon whom copies of petitions for judicial review shall be served. Such officer shall be responsible for filing in the court a transcript of proceedings and the record on which the final orders were based. The transcript and record shall be certified by the Commissioner.

§ 135.33 Confidentiality of information contained in applications.

For the purpose of this section, the term "application" refers to applications submitted pursuant to section 512 (b) and (m) of the act.

(a) The Federal Food, Drug, and Cosmetic Act provides that any person may file with the Secretary an application with respect to any new animal drug, or animal feed bearing or containng any new animal drug, which shall include among other things a full list of the articles used as components and a full statement of the composition of such preparations. These requirements apply to all components or ingredients whether or not they are therapeutically active. Fulfillment of these requirements may be met by submitting a full statement of the chemical or common or usual name and of the quantity of each component or ingredient. Such requirements may

also be met by including in the application a properly authorized reference to a previous application or other Food and Drug Administration file containing the relevant information.

(b) Section 301(j) of the act makes it an offense to divulge to unauthorized persons any information acquired from an application filed pursuant to section 512 of the act concerning any method or process that is a trade secret. Manufacturers may sometimes submit data to the Food and Drug Administration for the purpose of establishing the safety of ingredients that may be used in drugs and authorize specified applicants to incorporate by reference such data in their applications. Such manufacturers may regard some of the data in such files as trade secrets and request the Food and Drug Administration to treat such information as confidential. The Food and Drug Administration will preserve the confidentiality of such data to the extent that it may properly do so. Because the applicant is legally responsible for the composition of the drug and all its ingredients and may require information in the other person's file for judicial or administrative proceedings concerning the drug, the Food and Drug Administration will not withhold such information from the applicant when his need for it arises and he submits a written request for it. The Food and Drug Administration will inform the person who submitted the data of any such requests.

§ 135.34 Notice of withdrawal of approval of application.

When an approval of an application submitted pursuant to section 512 of the act is withdrawn by the Commissioner, he will give appropriate public notice of such action by publication in the FEDERAL REGISTER.

§ 135.35 Records and reports on new animal drugs and antibiotics for use in animals for which applications or certification forms 5 and 6 became effective or were approved prior to June 20, 1963.

(a) Each applicant for whom a new animal drug application or supplement for a drug for use in animals became effective or was approved at any time prior to June 20, 1963, and each person holding an approved form 5 or 6 for an antibiotic drug for use in animals at any time prior to June 20, 1963, shall submit, in duplicate, the following information for each dosage form within 60 days from the effective date of this section:

(1) Identification of the dosage form of the drug by its established and proprietary names, if any, the formula showing quantitatively each ingredient of the drug to the extent disclosed on the label (a copy of the label will ordinarily fulfill this requirement), the route of administration, and the new animal drug application number.

(2) Whether the drug was marketed and whether it is currently marketed.

(3) If the drug was marketed and marketing has been discontinued, the date and reason for discontinuing its marketing.

(b) Each applicant for whom a new animal drug application or supplement for a drug for use in animals became effective or was approved at any time prior to June 20, 1963, and each person holding an approved form 5 or 6 for an antibiotic drug for such use at any time prior to June 20, 1963, shall submit the following information with respect to each drug currently marketed within 120 days from the effective date of this order:

(1) A copy of the label on the package of the drug and of the package insert or brochure bearing directions or information for use of the article.

(2) If clinical experience reported to or otherwise received by the applicant indicates the need for change in claims for effectiveness or in side effects, warnings, or contraindications in the labeling or advertising currently in use, the applicant shall submit a supplemental application proposing such changes.

(3) Information on this initial report should consist of the types of reports required by § 135.14.

(c) Such reports shall be addressed to the Department of Health, Education, and Welfare, Food and Drug Administration, Bureau of Veterinary Medicine (VM–1), 5600 Fishers Lane, Rockville, Md. 20852, and shall be distinctly marked "New Animal Drug (or Antibiotic) Report," together with the applicable new animal drug application number or antibiotic account number on the envelope.

(d) After the submission of the initial reports required by paragraphs (a) and (b) of this section, each such applicant shall after 1 year submit for the reporting period reports of the kinds required by § 135.14, not later than each anniversary date of the submission of the report required by paragraphs (a) and (b).

(e) Deliberate or repeated failure to make the reports required by paragraphs (a) and (b) of this section will be followed by written notice to the holder of the application, and publication of such notice in the FEDERAL REGISTER, furnishing an opportunity for a hearing on a proposal to withdraw approval of the application. Any interested person who may be adversely affected by such an order may respond to such notice and avail himself of an opportunity to participate in such a hearing. This will allow any person distributing a drug that was covered by an application held by a person who did not make the required reports an opportunity to show cause why approval of the application should not be withdrawn and marketing of the drug discontinued.

(f) Reports showing that a new animal drug was not marketed or has been discontinued may be followed by publication in the FEDERAL REGISTER of a notice of a proposal to withdraw approval of such application, on any of the grounds specified in section 512 of the act, giving any interested person who would be adversely affected by such an order an opportunity to respond and avail himself of a hearing prior to the issuance of such order. This will allow any person distributing a new drug that was covered by an application held by a person who did not market the drug or who has abandoned marketing of the drug an opportunity to show cause why approval of the application should not be withdrawn and why marketing of the drug should not be discontinued.

§ 135.36 Export of new animal drug.

Before a new-animal drug or an animal feed bearing or containing a new animal drug may be exported, it must comply with the regulations promulgated under section 512 of the act.

§ 135.37 Designated veterinary journals.

The following journals are available to the Food and Drug Administration and thus permit waiving of the submission of reprints and summaries covering reports contained in these journals to the extent that such requirements are waived in the regulations in this part:

All Pet's Magazine (Jersey City).
American Journal of Veterinary Research (Chicago).
Animal Health (Journal of the Animal Health Trust) (London).
Animal Production (Edinburgh).
Avian Diseases (Amherst).
British Poultry Science (Edinburgh).
Canadian Journal of Comparative Medicine and Veterinary Science (Gardenvale, Quebec).
Canadian Veterinary Journal (Guelph, Ontario).
Cornell Veterinarian (Ithaca).
Experimental Parasitology (New York).
The Feed Bag (Milwaukee).
Feedstuffs (Minneapolis).
Hoard's Dairyman (Fort Atkinson).
Journal of the American Veterinary Medical Association (Chicago).
Journal of Animal Science (Albany).
Journal of Dairy Science (Champaign).
Journal of Economic Entomology (Baltimore).
Journal of Small Animal Practice (London).
Modern Veterinary Practice (formerly North American Veterinarian) (Wheaton, Ill.).
National Hog Farmer (Grundy Center, Iowa).
New Zealand Veterinary Journal (Wellington).
Poultry Science (Guelph, Ontario).
Praktische Tierarzt (Postfach, Germany).
Research in Veterinary Science (Chicago).
Small Animal Clinician (Kansas City, Mo.).
Veterinaermedizin (Konstanz, Germany).
Veterinarian (London).
Veterinarian (International) (New York).
The Veterinary Bulletin (Farnham Royal, England).
Veterinary Medicine (Kansas City, Mo.).
Veterinary Record (Croydon, England).
Zentralblatt Fuer Veterinaermedizin Zentr. Veterinaermed (Berlin).

2. In Part 144 by revoking §§ 144.24 and 144.25 and by revising the section heading and introductory text of § 144.26 to read as follows:

§ 144.26 Animal feeds subject to the provisions of section 512(m) of the act that bear or contain a new animal antibiotic drug subject to the provisions of section 512(n).

Animal feeds that bear or contain penicillin, streptomycin, chlortetracycline, bacitracin, feed grade bacitracin, feed grade manganese bacitracin, feed grade zinc bacitracin, and bacitracin methylene disalicylate, with or without

other added suitable nutritive ingredients, are approved for use if they comply with the requirements of Part 135e of this chapter and any one of the following paragraphs of this section:

* * * * *

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: May 8, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-5980; Filed, May 14, 1970; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-SO-34]

TRANSITION AREA

Proposed Alteration

Correction

In F.R. Doc. 70-5320, appearing on page 6969, in the issue of Friday, May 1, 1970, in the 10th line of the transition area description following the figure "21" the word "miels" should read "miles."

[14 CFR Part 71]

[Airspace Docket No. 70-WE-27]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Riverton, Wyo., control zone and transition area.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Program Standards Branch, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. 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 contracting 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, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

The instrument approach procedures for Riverton, Wyo., have been revised in accordance with U.S. Standard for Terminal Instrument Procedures (TERPS). As a result, the control zone and transition area must be amended to provide additional controlled airspace protection for aircraft executing the prescribed instrument procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes the following airspace actions:

In § 71.171 (35 F.R. 2054) the description of the Riverton, Wyo., control zone is amended to read as follows:

RIVERTON, WYO.

Within a 5-mile radius of Riverton Municipal Airport (latitude 43°03'45" N., longitude 108°27'15" W.), within 2 miles each side of the Riverton VOR 291° radial, extending from the 5-mile radius zone to 8 miles west of the VOR, within 3 miles each side of the Riverton VOR 123° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (35 F.R. 2134) the description of the Riverton, Wyo., transition area is amended to read as follows:

RIVERTON, WYO.

That airspace extending upwards from 700 feet above surface within a 10-mile radius of Riverton Municipal Airport (latitude 43°03'45" N., longitude 108°27'15" W.), within 4.5 miles each side of the Riverton VOR 291° radial, extending from the 10-mile radius area to 19 miles west of the VOR, and within 3.5 miles each side of the Riverton VOR 123° radial extending from the 10-mile radius area to 12 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Riverton VOR, within 10 miles east and 7 miles west of the Riverton VOR 016° radial, extending from the 25-mile radius area to 38 miles north of the VOR, and that airspace within 1 mile north and 9.5 miles south of the Riverton VOR 291° radial extending from the 25-mile radius area to 30 miles west of the VOR.

These amendments are proposed under the authority of section 307(a) of Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on May 5, 1970.

LYNN L. HINK,
Acting Director, Western Region.

[F.R. Doc. 70-5973; Filed, May 14, 1970; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-WE-26]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new transition area at Newcastle, Wyo.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Program Standards Branch, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. 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 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, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

The county of Weston, Wyo., is installing a TVOR on the Mondell Airport, Wyoming. The FAA has developed an instrument approach procedure on this facility. The proposed transition area will provide controlled airspace protection for aircraft executing this instrument procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes the following airspace action:

In § 71.181 (35 F.R. 2134) the following transition area is added:

NEWCASTLE, WYO.

That airspace extending upward from 700 feet above the surface within 4.5 miles northeast and 9.5 miles southwest of the Newcastle VOR (latitude 43°52'54" N., longitude 104°18'26" W.), 154° and 334° radials extending from 6 miles northwest to 18.5 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface bounded on the north by the north edge of V-86, on the east by an arc of a 53-mile radius circle centered on Ellsworth AFB (latitude 44°08'45" N., longitude 103°06'15" W.), on the south by the north edge of V-26, on the west by a line 5 miles west of and parallel to the Newcastle VOR, 360° radial, excluding the airspace within a 3 mile radius of Schloredt, Wyoming Airport (latitude 44°23'30" N., longitude 104°24'30" W.).

This amendment is proposed under the authority of section 307(a) of Federal

Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on May 4, 1970.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 70-5974; Filed, May 14, 1970; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-WE-34]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would designate a new transition area at Oceanside, Calif.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Program Standards Branch, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. 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, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

The proposed 700 foot transition area is required for aircraft operating below 1,500' above the surface when executing prescribed instrument approaches to Oceanside Municipal and Palomar, Calif., airports.

In consideration of the foregoing, the Federal Aviation Administration proposes that following airspace action:

In § 71.181 (35 F.R. 2134) the following transition area is added:

OCEANSIDE, CALIF.

That airspace extending upward from 700 feet above the surface between the Oceanside VORTAC 316° and 136° radials and a line 5 miles northeast of and parallel to the Oceanside VORTAC 316° and 136° radials, extending from latitude 33°15'00" N., to 5 miles northwest of the VORTAC.

This amendment is proposed under the authority of section 307(a) of Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on May 4, 1970.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 70-5975; Filed, May 14, 1970; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SW-27]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Harrison, Ark., terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. 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 Chief, Air Traffic Division. 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 light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.171 (35 F.R. 2054), the Harrison, Ark., control zone is amended to read:

HARRISON, ARK.

Within a 5-mile radius of Boone County Airport (lat. 36°15'55" N., long. 93°09'14" W.), within a 7.5-mile radius of the airport extending from the Harrison VOR 165° radial clockwise to the 230° radial, and within 1.5 miles each side of the Harrison VOR 140° radial extending from the 5-mile radius zone to the VOR.

(2) In § 71.181 (35 F.R. 2134), the Harrison, Ark., transition area is amended to read:

HARRISON, ARK.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Boone County Airport (lat. 36°15'55" N., long. 93°09'14" W.), within a 12.5-mile radius of the airport extending from the Harrison VOR 140° radial clockwise to the 320° radial, and within 3.5 miles each side of the Harrison VOR 320° radial extending from the 6.5-mile radius area to 11.5 miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface bounded on the northwest by V-72, on the east by V-71, and on the south by the Arkansas/Missouri State line excluding the portion within the Point Lookout, Mo., transition area.

Amendment of the VOR-1 instrument approach procedure to Boone County Airport is required to provide for a new approach procedure to the School of the Ozarks Airport at Point Lookout, Mo. The application of Terminal Instrument Approach Procedures (TERPs) and current airspace criteria requires additional controlled airspace. To provide a continuity of controlled airspace and simplify charting, an additional small area of uncontrolled airspace is being proposed for inclusion in controlled airspace with a floor of 1,200 feet above the surface. This area is bounded by V-140, V-72, V-71, and the airspace required for the amended VOR-1 procedure. It is partly included in this proposal; the remainder is included in a separate proposal for the Arkansas transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on May 6, 1970.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 70-5976; Filed, May 14, 1970; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-29]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Charleston, S.C., control zone and transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, Ga., 30320. 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 hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace Branch. 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.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Charleston control zone described in § 71.171 (35 F.R. 2054) would be redesignated as:

Within a 5-mile radius of Charleston AFB/Municipal Airport (lat. 32°53'55" N., long. 80°02'20" W.); within 3 miles each side of Charleston VORTAC 018° radial, extending from the 5-mile radius zone to 8.5 miles north of the VORTAC; within 2.5 miles each side of Charleston VORTAC 135° radial, extending from the 5-mile radius zone to 5.5 miles southeast of the VORTAC; within 2.5 miles each side of the 147° bearing from Charleston RBN, extending from the 5-mile radius zone to the RBN; within 3 miles each side of Charleston VORTAC 211° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC; within 3 miles each side of Charleston VORTAC 332° radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC.

The Charleston transition area described in § 71.181 (35 F.R. 2134) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Charleston AFB/Municipal Airport (lat. 32°53'55" N., long. 80°02'20" W.); within 4 miles each side of Charleston VORTAC 140° radial, extending from the 9-mile radius area to 11 miles southeast of the VORTAC; within 5 miles each side of Charleston VORTAC 332° radial, extending from the 9-mile radius area to 16 miles northwest of the VORTAC.

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to Charleston terminal area requires the following actions:

CONTROL ZONE

1. Increase the extensions predicated on Charleston VORTAC 018°, 211°, and 332° radials 2 miles in width and 0.5 mile in length.
2. Increase the extension predicated on Charleston VORTAC 135° radial 1 mile in width.
3. Designate an extension predicated on the 147° bearing from Charleston RBN 5 miles in width and extending to the RBN.
4. Revoke the extension predicated on Charleston ILS localizer NW course.

TRANSITION AREA

1. Increase the basic radius circle from 8 to 9 miles.
2. Increase the extension predicated on Charleston VORTAC 140° radial 4 miles in width and 0.5 mile in length.
3. Decrease the extension predicated on Charleston VORTAC 332° radial 3 miles in width and increase it 4 miles in length.
4. Revoke the extensions predicated on Charleston ILS localizer northwest course and Charleston VORTAC 135° radial.

The proposed alterations are required to provide controlled airspace protection for IFR operations in climb to 1,200 feet above the surface and in descent from 1,500 feet above the surface.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on April 2, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-5977; Filed, May 14, 1970; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SW-28]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration and Revocation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Fayetteville, Ark., terminal area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. 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 Chief, Air Traffic Division. 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.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.171 (35 F.R. 2054), the Fayetteville, Ark., control zone is amended to read:

FAYETTEVILLE, ARK.

Within a 5.5-mile radius of Drake Field (lat. 36°00'13" N., long. 94°10'12" W.), within 3 miles each side of the Drake VOR 325° radial extending from the 5.5-mile radius zone to 8 miles northwest of the VOR.

(2) In § 71.181 (35 F.R. 2134), the Fayetteville, Ark., transition area is amended to read:

FAYETTEVILLE, ARK.

That airspace extending upward from 700 feet above the surface within a 27.5-mile radius of lat. 36°12'00" N., long. 94°14'00" W., within 5 miles each side of the Drake VOR 186° radial extending from the 27.5-mile radius area to 19 miles south of the VOR, and within 5 miles east and 10 miles west of the Fayetteville VORTAC 005° radial extending from the 27.5-mile radius area to 33.5 miles north of the VORTAC.

(3) In § 71.181 (35 F.R. 2134), the Decatur, Ark., transition area is revoked.

(4) In § 71.181 (35 F.R. 2134), the Siloam Springs, Ark., transition area is revoked.

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to instrument approach and departure procedures for airports in the Fayetteville, Ark., terminal area requires the designation of additional controlled airspace. The proposed control zone and transition area include the required terminal controlled airspace for all airports in the area; i.e., Drake Field, Rogers Municipal Airport, Springdale Municipal Airport, Crystal Lake Airport, and Smith Field. The proposed transition area precludes a detailed description of the separate airspace parcels for the foregoing airports and greatly simplifies the charting requirements, making it much easier for pilots to determine the boundaries of controlled airspace.

Additional controlled airspace, extending upward from 1,200 feet above the surface, is required and is contained in a separate proposal for the Arkansas transition area.

It has been determined that the published coordinates for the Rogers RBN are erroneous and the site is incorrectly charted on the Kansas City Sectional Aeronautical Chart. The correct coordinates are lat. 36°27'48" N., long. 94°05'-53" W.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on May 6, 1970.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 70-5978; Filed, May 14, 1970; 8:49 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 69-7; Notice 4]

OCCUPANT CRASH PROTECTION; PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS AND BUSES

Notice of Proposed Motor Vehicle Safety Standard

Correction

In F.R. Doc. 70-5652 appearing at page 7187 in the issue for Thursday, May 7, 1970, the third line in S5.5 in the center column on page 7189 should read, "shall be not less than 1.5 pounds, the ad-".

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 249, 295, 399]

[Docket No. 22174]

CHARTER REGULATIONS

Notice of Proposed Rule Making

MAY 8, 1970.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Parts 207, 208, 212, 214, 249, and repeal of Part 295 of its economic regulations (14 CFR Parts 207, 208, 212, 214, 249, and 295) and amendment of its policy statements, Part 399 (14 CFR Part 399). The proposals embody substantial revision and extension of the charter regulations and include implementing, clarifying and editorial amendments.

The principal features of the proposed amendments are described in the attached explanatory statement and the proposed amendments are set forth in the proposed rules. The amendments are proposed under the authority of sections 204(a), 401, 402, 403, 404(b), 407, and 416(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 754 (as amended by 76 Stat. 143), 757, 758 (as amended by 74 Stat. 445), 760, 766, 771; 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1377, 1386).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All revelant material in communications received on or before June 15, 1970, and reply comments thereon received on or before July 6, 1970, will be considered by the Board before taking final action on the proposed rules.[1] Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.[1a]

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

Explanatory statement. There are basically two types of passenger transportation services provided by certificated carriers—charters and individually ticketed services. The Act contemplates that the distinction between the two be maintained, and the Board has a responsibility to assure that charters do not become individually ticketed services. The Board's charter regulations are designed to preserve the separate character of the two categories of services.

It has recently become apparent, however, that widespread practices have developed which, if allowed to continue, would substantially vitiate the charter concept and erode the statutory distinction between charter and individually ticketed services. The amendments proposed herein are primarily intended to prevent practices which have undermined the charter concept and to place greater responsibility on the carriers for policing the regulations. In addition to proposals in furtherance of this objective, we shall grant the request for rule making of Capitol Airways in Docket 17995 and that of eight supplemental carriers in Docket 21255 for consolidation of Part 295 into Part 208.[2] Certain other requests of the latter will be granted to the extent indicated hereafter.[3]

Specifically, in this rule making proceeding the Board proposes to:

(1) Consolidate Part 295 into Part 208 and repeal Part 295, with implementing amendments and editorial revisions.

(2) Establish uniform charter regulations applicable to all types of charters (except inclusive tour charters) performed by all classes of carriers and applicable to on-route as well as off-route charters;

(3) Secure stricter enforcement of existing requirements in the charter regulations by amending the regulations so as to (a) curb the activities of "passenger-forwarders" and better enable the carriers to police the regulations; (b) prevent "umbrella-type" organizations; (c) restrict solicitation of charter participants across chapter lines of organizations; (d) prohibit carriers from performing pro rata charters involving certain activities of travel agents and (e) tighten the regulations governing allowance of administrative costs, so as to take the profit element out of pro rata charters.

(4) Relax existing requirements by (a) liberalizing the present restriction that a maximum of three charter groups of 40 or more passengers may be carried on one aircraft; (b) permitting all types of passenger charters, except inclusive tour charters, to be combined as split charters on one aircraft; (c) permitting split charters in the case of inclusive tour charters when all charterers of a particular aircraft are inclusive tour operators; and (d) permitting intermingling of passengers on the return leg of pro rata charters in certain circumstances.

The details of these summary proposals will be next discussed seriatim.

1. *Consolidation of Parts 208 and 295.* The Board finds merit in the requests that the terms, conditions and limitations of certificates to engage in supplemental air transportation should be embodied in a single set of regulations. The existence of two sets of regulations arises from historical rather than analytical factors, and there appears no further reason why both should be maintained. Accordingly, the Board proposes to consolidate all the terms, conditions, and limitations of supplemental certificates into Part 208 and to repeal Part 295. As indicated hereafter, certain provisions of Part 295, which have no counterpart in Part 208, will be retained for inclusion in Part 208.

2. *Uniform charter regulations.* The Board also proposes to establish uniform charter regulations applicable to all types of charters (except inclusive tour charters) performed by all classes of carriers and applicable to on-route as well as off-route charters. Investigation has revealed not only apparent violations of the Board's charter regulations in Parts 208, 295, and 214, applicable to supplemental and foreign charter carriers, but that IATA carriers may be violating or condoning violations of the IATA charter rules. Under these circumstances we are of the opinion that supplemental carriers (and Part 214 carriers) should not be subject to more stringent charter regulations than the route carriers, both as to on-route and off-route charters. Nor should the supplemental carriers be singled out with respect to the proposals hereafter described tightening up the regulations to preserve the charter concept. To apply more restrictive regulations to the supplementals than are imposed on the route carriers would result in a serious competitive advantage to the latter. There should also be a better enforcement atmosphere if all classes of carriers must comply with the same rules.

It may be noted that the application of the proposals herein to on-route, as well as off-route, charters in Parts 207 and 212 do not, in the Board's view, impinge on the basic right of the scheduled carriers to conduct on-route charters. Instead the regulations are intended to assure that these carriers do not abuse their right to conduct on-route charters by performing what are essentially individually ticketed services in the guise of charter services. Moreover, these regulations in general will better enable the Board to police the carriers' compliance with their published tariffs which set forth specific rates for "charter" flights. If these rates are used for services other than true charters, questions arise not only as to violation by the direct air carrier of sections 403 and 404(b) of the Act, but also as to violation by the chartering group of section 401 of the Act. It is our view that the proposed requirements as to on-route charters, in addition to those affecting off-route charters, are within our rule making powers as reasonable provisions to enable the Board to perform its statutory duty to enforce these sections of the Act.

Accordingly, the Board tentatively finds that the existing charter regulations set forth in Part 208 together with the amendments to Part 208 proposed herein, to the extent applicable, should be extended to Parts 207, 212, and 214

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[1] In view of the number and complexity of the proposals, it is anticipated that there will be requests for an extension of time for filing comments. However, the Board expects interested persons intending to file comments to use the time set herein for preparing comments and will consider an extension only for the purpose of affording additional time for their preparation.

[1a] Board Member Murphy issuing a comment which is filed as part of the original document.

[2] Dockets 17995 and 21255 are consolidated into the instant proceeding.

[3] The remaining requests of the eight supplemental carriers in their petition for rule making and the supplemental petitions filed in Docket 21255 will be dealt with separately.

and with respect to both on-route and off-route charters of carriers subject to Parts 207 and 212. Proposed rules implementing this finding are incorporated in this notice.

3. *Regulations designed to curb the activities of "passenger forwarders" and better enable the carriers to police the regulations.* Investigation has disclosed the misuse of charters by ineligible groups and the fact that charter groups were formed by persons principally engaged in travel activities who were, in effect, passenger forwarders or consolidators engaged in providing individually ticketed services. In addition, it appears that carriers generally do not investigate chartering organizations, but merely accept pro forma a verified statement from the organization.

To curb the activities of passenger forwarders and to better enable the carriers to police the regulations, it is proposed to amend Part 208 as follows:

(a) The definition of "bona fide" members in § 208.3(q) would be amended so as to include the 6-month membership rule presently set forth in Parts 214 and 295,[4] and the rule would be mandatory and not presumptive, as presently provided. In practice, the rule has been regarded as mandatory and the modification would be clarifying in effect. This requirement would be in addition to the requirement that a charter participant be a member of the organization at the time the latter first gives notice to its members of firm charter plans. The 6-month rule is a more objective test than the notice rule, and some charters are operated on a continuing basis, making it difficult to determine when the organization first announces the flight. In addition, some participants may join the group in anticipation of the flight announcement, so that imposition of the 6-month rule would give added objective assurance that the charter participant was a bona fide member of the group and did not join it merely to participate in the charter flight.

(b) Part 295 presently requires that the air carrier, travel agent, if any, and charterer complete a statement of supporting information to be supplied to and retained by the air carrier. This statement contains a list of prospective passengers showing for each the name, address, and whether he is a member of the chartering organization or a relative of such member. However, no definite time is fixed for the submission of this statement. As a result the practice is for the charterer to submit this information to the carrier shortly before the charter flight departs. This may result in the failure of the carrier to check the information.

It is proposed to amend Part 208 so as to require a statement of supporting information by the direct carrier (§ 208.202c), travel agent, if any (§ 208.204) and charterer (§ 208.218), and that it be filed by the travel agent and/or charterer 30 days prior to the scheduled date of departure, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed (§ 208.201). Since a statement for each flight is needed to compute the pro rata share, § 208.202c will provide that, if a charter contract covers more than one charter flight, a statement shall be filed for each one-way or round-trip flight. That section will also provide that the carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the charter contract is signed. This provision is proposed in light of the carrier's responsibility for enforcement of charter regulations, and announcements reveal the activities of the organization in connection with the charter.

The Statement of supporting information executed by the charterer will include certification by the charterer that all participants have been informed of eligibility and pro rata cost requirements and that a flight may be canceled if ineligible participants are included. This proposal is made to assure that participants are advised as to specific cost of the charter and are made aware that violations of the regulations will jeopardize the flight. In addition it is proposed that the charterer certify that it has not offered charter flights simultaneously with the solicitation of membership in any mass media advertisement or notice or through direct mailing or public posters. Finally, the warranty of the air carrier with respect to the statement would include certification that it has checked and compared the membership list with the prospective passengers, has checked the articles of incorporation, etc., and has made a record of the officers and directors of the organization. This certification would fix responsibility on the air carrier for careful investigation of a chartering organization.

(c) Investigation has disclosed that some charters have been illegally arranged by travel agents in order to realize large profits from the land tour part of the trip, and the charter-participant has no way of knowing his pro rata share of air transportation cost. To counter this situation it is proposed to amend § 208.213 (charter costs) to provide that the chartering organization, in any announcement giving price per seat, shall state that the seat price is a pro rata share of total charter costs and is subject to increase or decrease depending on the number of participants. And all announcements shall separately state the cost of the entire trip, and shall separately state the cost of air transportation and accommodations, if any, and identify the carrier and the number of seats available and the type of aircraft to be used for that charter.

(d) Section 208.215 (passenger manifests) presently requires a manifest to be filed by the charterer, prior to a flight, showing the names and addresses of persons to be transported. Section 295.36, pertaining to passenger manifests in Part 295, requires the designation of the relationship of the persons to be transported to the charterer and is permissive as to the inclusion of "stand-by" participants.

Amendment of § 208.215 is proposed to retain the requirements of § 295.36 to aid the carriers in checking bona fide members.[5] In addition, the date the member joined or last renewed a lapsed membership would be required. Further, stand-by and one-way passengers are to be listed and the list shall be amended if passengers are added or dropped before flights. The latter requirements should inhibit the practice of "fill-up" ineligible passengers just before flight. The statement of supporting information would also be revised to include these new requirements.

(e) Section 208.211 provides that the charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member. In addition, the statement of supporting information attached to Part 295, requires that, if total membership is less than 1,000, the charterer shall submit a list showing the names and addresses of members in good standing. If total membership in the chartering organization is 1,000 or more, the charterer shall state where a list of members is available for inspection.

The provisions appearing only in the statement of supporting information will also be incorporated in § 208.211 to gain greater adherence to the provisions, as well as to better put charterers on notice of these requirements. In addition, § 208.211 would be amended to provide that, where total membership is less than 1,000, the membership list shall be furnished the carrier within 30 days after the charter contract is signed or at the time the contract is signed, if it is signed within 6 months of flight date. This requirement will afford the carriers better opportunity to ascertain that the charter participants are bona fide members of the chartering organization.

(f) It is proposed to amend § 208.201[6] to provide that if the carrier signs a contract for a charter within 15 days of the flight date, the carrier shall require the person who executes the contract on behalf of the charterer to certify as to whether a contract for the flight has been canceled by another carrier because of ineligibility of the charterer.[7] In addition, the carrier shall notify the Board,

[4] The 6-month rule also applies to IATA charters.

[5] The title of § 208.215 would also be revised to read "Passenger lists" and corresponding changes in the text would be made. The word "manifest" is a technical term not accurately applied to the passenger list involved here and could be confusing.

[6] And revise the title to read "Pretrip notification and charter contract."

[7] Section 208.201 would also be amended to require that the carrier attach to its copy of the charter contract a certification by an officer of the chartering organization authorizing the person who executes the contract to do so on behalf of the charterer.

within 5 days after the contract has been executed, that its execution took place within 15 days of flight date and that, if the flight has been canceled, the carrier has made inquiry and has satisfied itself that the cancellation was not caused by the ineligibility of the charterer.

Pro rata charters are generally arranged for well in advance of flight date. A contract executed shortly before flight date raises the possibility that the charter group may have been found ineligible by another carrier. The above provisions would tend to preclude this possibility and would discourage ineligible groups from last-minute shopping for a charter.

Section 208.201 would be further amended to provide that, if a contract is for the return flight of a one-way charter, the carrier shall require the charterer to attach a copy of the passenger list of the outbound charter to the charter contract. This provision would enable the carriers to assure that the rule against intermingling of round-trip passengers is being observed on such flights and that they are not being used to provide individually ticketed services to the public.

(g) It is also proposed to amend § 208.210 to require that a charterer shall not advertise or solicit for any charter until a charter contract has been signed. Since a charter price is not established until a charter contract is executed, this amendment will tend to assure against misleading advertising for charter transportation between points at a fixed price. The proposal is also suggested by the eight supplemental carriers which point out that it will offer a positive method of control over the activities of indirect carriers, will protect potential charter participants from "fly-by-night" promoters and will generally assist the supplementals in their attempt to gain and maintain public confidence.

4. *Regulations designed to prevent "umbrella-type" organizations.* Investigation has also revealed that organizations which may be charter-worthy have affiliated themselves with other organizations with the principal purpose of providing places for their members on pro rata charter flights. In this fashion a small organization can join with an "umbrella" to afford its members an opportunity to select from as many as 100 charter flights in a single season, whereas the organization itself could provide perhaps one or two flights for its members during the same season. It also appears that such umbrella-type organizations supplying pro rata charters obtained large profits by charging the participants prices in excess of the pro rata charter costs and administrative expenses, and providing thereby large fees to the officials participating and monies for other club activities. In addition, it appears that there is a correlation between size and profitability with respect to umbrella-type organizations. Promoters have expanded the charter base by this device, and in doing so, have been able to reap handsome profits through membership fees.

The use of the umbrella technique is inconsistent with the affinity-group concept and results in charters being held out to the general public by virtue of the numerous organizations involved. In order to prevent umbrella-type organizations, the following amendments to the regulations are proposed:

Amendment of § 208.210 (Solicitation of charter participants) is proposed so as to provide that charter participants solicited without limit from organizations with a total membership of more than 20,000 shall be presumed to be solicited from the general public,[8] and such organizations are not eligible chartering organizations unless granted a waiver. Rebuttal to the presumption could be offered by request for waiver. A new § 208.216 would be added providing that a chartering organization shall be limited to 2,000 seats per calendar year, whether on a one-way or round-trip basis, subject to waiver. Further a new § 208.217 would be added requiring a written application for a charter setting forth the number of seats desired, points to be included, dates of departure, and the number of seats contracted for with carriers during the calendar year.

The 20,000-membership restriction formerly was incorporated in IATA Resolution 045[9] and in Part 295. The proposal to limit the number of seats chartered per year, subject to waiver, would enable the Board to screen large charterers for compliance with the regulations. On a stretched jet the 2,000 seats per year amount to approximately 8 to 10 charter flights. To require a charterer seeking to contract for more than five round trips per year to apply to the Board for a waiver would not appear unreasonable and would, we believe, restrict the use of umbrella-type organizations as charterers and would give additional assurance that the organization is charterworthy.

As a further preventative of the activities of umbrella-type organizations, it is proposed to add a new § 208.202a to prohibit a carrier from performing a pro rata charter or charters for an organization which it knows, or has reason to know, has any of certain specified characteristics. Experience has shown that these characteristics identify umbrella-type organizations. The statement of supporting information would be revised to include questions with respect to these characteristics so as to put the carriers on notice that affirmative answers or, in some instances, unsatisfactory explanations, will identify the organization as uncharterworthy.

[8] The presumption would not apply to student charters, employee charters, or study group charters.

[9] A recent amendment to the resolution would raise the maximum permissible size for an acceptable chartering organization from 20,000 to 50,000. As indicated in Order 70-2-81, tentatively approving the amendment, in the event the Board finalizes the 20,000-member limitation proposed herein, its approval of the IATA Charter Resolution in this respect would be reopened. The tentative findings in this order were made final in Order 70-3-88.

5. *Rules to restrict solicitation across chapter lines.* Related to the problem of the umbrella-type organization is the practice of some chapters of large organizations of soliciting across chapter lines; and there have been a number of apparent violations of the charter regulations where a chapter of a national organization has engaged a charter flight and then solicited charter participants from members of other chapters of the parent organization. If the members of the parental organization are to be solicited, then the parent itself should be the charterer. Only in this way can responsibility for complying with the charter regulations be fixed.

To prevent solicitation across chapter lines and to enable carriers to ascertain who is the charterer, § 208.210 (Solicitation of charter participants) would be amended to provide that a chapter or unit thereof shall not solicit a national or regional organization with which it is associated with respect to charter flights.

6. *Regulation to prohibit carriers from performing charters involving certain activities of travel agents.* Certain types of apparent violations of the charter regulations have stemmed from travel agents acting as indirect carriers and chartering aircraft to be filled by solicitation of the public. To prevent these activities a new § 208.202b is proposed to prohibit carriers from performing a charter with respect to which it knows, or has reason to know, that a travel agent has engaged in certain specified activities. To assist the carriers in identifying travel agents which engage in such activities, section A of Part II of the statement of supporting information would be revised to include questions addressed to such activities.

7. *Rule designed to take the profit element out of pro rata charters.* Parts 208 and 295[10] provide for reasonable administrative costs which may include up to $500 per charter for actual labor and personal expenses (where the charter participants number more than 80); and total expenditures exclusive of expenses for air transportation or land tours may be up to $750 per round-trip flight unless such expenses are supported by properly authenticated vouchers. Thus, there is no present limit on total expenditures if supported by vouchers.

It is proposed to amend § 208.213(c) to provide an absolute ceiling for administrative costs and total expenditures (excluding air transportation and land tours) of $2 per passenger on one-way charters and $4 per passenger for round-trip flights. Vouchers would be available to charter participants if requested. The imposition of an absolute ceiling on total expenditures instead of the present presumptive ceiling of $750 per round-trip charter with no ceiling if expenses are supported by vouchers should go a long way in removing the profit element from pro rata charters, and thus reduce the incentive to promote illegal charters.

8. *Proposals to relax existing requirements in the regulations*—(a) *Split*

[10] The rule also appears in Part 214.

charters. Parts 208, 214, and 295 provide that a maximum of three charter groups of 40 or more passengers each may be carried in one aircraft. The supplemental carriers request relaxation of this requirement by removal of the limitation as to the number of groups in one aircraft.

As stated by the supplementals, the original split charter authority was granted in 1964 for one-half the capacity of an aircraft which assumed a capacity of at least 80 passengers on the piston equipment then used by the supplementals for transatlantic charters, or based on each group having at least 40 persons. The provision for three groups was adopted in 1966 when the supplementals were using aircraft with increased seating capacity. The supplemental carriers predict that in the spring of 1971 the first supplemental will acquire 400-passenger B–747 equipment and at that time the present split charter rules will be clearly inappropirate.

The Board believes that some revision of the charter regulations may be appropriate in recognition of the technological advance cited by the supplementals. However, rather than propose a specific rule applicable to all classes of carriers, we consider that a final rule on the subject should be framed in light of comment received. In this connection, we note that IATA Resolution 045 precludes split charters, and the definitions of "charter trip" in Parts 207 and 212 do not include split charters. Comments should include suggestions as to whether these parts should be revised to conform to Parts 208 and 214 with respect to split charters.

(b) *Split charters comprised of all types of charters.* The petition of the supplemental carriers points out that §§ 208.3(s)(ii) and 295.2(b)(2)(ii) impliedly limit the split charter privilege to pro rata "affinity" groups.[11] Petitioners seek an amendment so that all possible types of charters may be carried on a single plane: affinity groups, study groups, single entity charters, and other types of charter groups.

The Board is of the tentative opinion that the regulations should be amended to provide that all types of passenger charters, except inclusive tour charters, be permitted to be combined as split charters on one aircraft. In view of the proximity of time when the jumbo jets will be available on the market, such amendment appears necessary to make split charters economically feasible. We do not believe that inclusive tour charters should be combined with other charters. With respect to inclusive tour charters, the charterer (tour operator) is an indirect air carrier who offers to the public all seats on the aircraft in inclusive tour charters. As a carrier he should not be permitted to rely upon pro rata affinity charters to fill up the aircraft, since cancellation of the affinity charter groups, for lack of charterworthiness or other reasons, would jeopardize the transportation of the inclusive tour passengers. However, this consideration would not apply to split charters where all of the charterers are inclusive tour operators, and it would appear appropriate to amend Part 208, with implementing amendment of Part 378, to permit split charters for inclusive tour charters when the entire capacity is used for this type of charter.

As in the case of the split charter proposals in the previous discussion, we shall not propose specific rules to amend the regulations to permit split charters of all types of charters except inclusive tour charters and to permit split charters comprised entirely of inclusive tour charters. Rather, final rules will be decided on in the light of comment received.

(c) *Blanket authority to permit intermingling of passengers on return leg of pro rata charter.* The present regulations pertaining to pro rata charters in Parts 208, 214, and 295 prohibit intermingling of passengers where there are two or more round-trip flights of the chartering organization; i.e., the same individuals must travel together on the outgoing and incoming flights of the round trip. The rules also limit participation in a charter to bona fide members of the chartering organization. The supplemental carriers in their petition state that often a charter participant will miss the return flight of his organization or for some other unanticipated reason be required to return early. They request an amendment to permit the carriers to handle emergency situations such as these in the most expeditious manner possible, requiring only that they notify the Board afterwards as to the action taken. Under the present regulations, the carrier must obtain an exemption or waiver from the Board to enable it to carry such passenger on a ferry flight or a charter of another organization.

The Board believes that the rules should be liberalized to permit intermingling of passengers on the return leg of pro rata charters under certain circumstances. Specifically, a new § 208.36 would be added to permit carriers to transport a passenger on a charter flight with a group other than his own or on a ferry flight if all of the following circumstances are present: (1) The passenger was transported by the carrier on the outbound charter flight; (2) the transportation is for return passage only; (3) the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond his control; and (4) the charter group with which the passenger is to travel expresses no objection to his participation in the charter. In all cases where such substitute transportation is furnished, the carrier shall file a report with the Board within 30 days after the substitute transportation is provided setting forth the circumstances of the carriage.

While we have some reservations concerning this proposal,[12] on balance we consider that it is justified by the growing number of requests submitted by supplemental carriers seeking authority to transport a person on a flight other than his own. Typically these requests are filed at the last minute, and usually are granted where it appears that a passenger might be stranded, or when there is an emergency requiring his return ahead of his group. They have constituted a considerable workload item and in our view their individual handling accomplishes nothing that would not be accomplished by blanket authority coupled with a reporting requirement.

9. *Miscellaneous clarifying and implementing amendments.*[13] Repeal of Part 295 requires certain implementing changes in Part 208.[14] The definition of "supplemental air transportation" would be revised to reflect the addition of transatlantic supplemental air transportation to Part 208. In addition although not required by consolidation, the definition of "charter flight" would be revised to read "air transportation performed by supplemental air carriers in accordance with § 208.6 of this part," and a new § 208.6 ("charter flight limitations") would contain the present provisions of the definition. This change is made because the present format sets forth the substantive terms and conditions in a definition and has proved confusing and cumbersome. In addition, the provision respecting unused space appearing after § 208.3(s)(2)(ii)(c) will be removed to a new § 208.7 in the interest of clarification.

The new § 208.7 (Unused space) would include language from § 295.2 (which does not appear in Part 208) permitting utilization of unused space for the transportation of the directors, officers, and employees of a foreign air carrier or another air carrier traveling pursuant to a pass interchange arrangement. In addition, the written consent of the charterer

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[11] Sections 208.3(r) and 295.2(m) require a study group charterer to engage the entire capacity of the aircraft, as § 378.2(b)(5) does for inclusive tour operations. The regulation does not make clear whether a single entity charterer may participate in a split charter with either other single entity charterers or with "affinity" groups.

[12] If carriers can permit intermingling with a simple reporting requirement, a carrier may be put under considerable pressure by charterers to permit intermingling in dubious situations.

[13] In addition to matters discussed in the text, the proposed rules reflect certain editorial changes. Reference to Part 295 and/or interim certificates or authorizations issued under Public Law 87–528 are deleted from §§ 208.1, 208.3, 208.12, 208.101, 208.150, 208.200, 208.300, 208.400, 249.2, and reference to "Special Economic Regulation ER–363" in Part 249 is also deleted. Section 208.1 would also be amended to provide that Part 208 applies to exemptions. Amendments are also made in the definition of "substitute service" in § 208.3 and 208.101 to reflect that charters performed under contract with the Defense Department are no longer termed "short notice" military contracts limited to three weeks' duration. Section 399.17 is deleted as obsolete.

[14] In connection with consolidating the two parts, it is noted that § 295.60 (and § 214.60), but not Part 208, provide for an "advisory opinion." Such a provision will not be included in Part 208 and will be deleted from Part 214, since we find no need for it. However, the Bureau of Operating Rights will continue to give staff views on request.

or charterers would be required to prevent misunderstanding or ambiguity on the question.

Another clarifying amendment would be made to § 208.32a(b). This section requires the payment of incidental expenses in connection with flight delays occurring outside the United States. However, it refers to delay occurring outside the "continent," and this term has caused problems of interpretation. The pertinent language in § 208.32a(b) will be amended to read: [14]

On the return leg of a charter flight bound from a point outside the country where the charter originated and is to terminate. * * *

Finally, implementing amendments are proposed for Parts 249 (record retention) and 399 (policy statements). Category 14(b) of § 249.8 presently requires a transatlantic supplemental carrier to retain for 2 years proof of the commission paid to travel agents.[15] It is proposed to extend this requirement to all supplemental carriers in order to assure compliance with §§ 208.202 and 208.203. And, for the reasons previously set forth, the record retention requirements of all classes of carriers would be conformed. Further, since it is proposed to amend Part 212 to provide that the carriers subject thereto would be under the same charter regulations as other classes of carriers with respect to on-route and off-route charters, there would be no need for § 399.15 (Processing of applications of foreign air carriers, pursuant to Part 212 of this chapter, for statements of authorization to conduct off-route charter trips). It is therefore proposed to delete this section.

It is proposed to amend Parts 207, 208, 212, 214, 249, 295, and 399 of the Board's regulations (14 CFR Parts 207, 208, 212, 214, 249, 295, and 399) as follows:[16]

Part 208. 1. Amend the Table of Contents by adding titles to new §§ 208.6, 208.7, 208.36, 208.202a, 208.202b, 208.202c, 208.204, 208.216, 208.217, and 208.218, and revising the titles of §§ 208.101, 208.201, and 208.215. As amended the Table of Contents will read in pertinent part:

Sec.

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208.6 Charter flight limitations.
208.7 Unused space.

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208.36 Substitute transportation in emergencies.

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208.101 Minimum rates and compensation for air transportation performed for the Department of Defense.

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208.201 Pretrip notification and charter contract.

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208.202a Prohibition on performing charters for certain types of organizations.
208.202b Prohibition on performing charters involving certain activities of travel agents.
208.202c Statement of supporting information.

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208.204 Statement of supporting information.

* * * * *

208.215 Passenger lists.
208.216 Seat limitations.
208.217 Application for a charter.
208.218 Statement of supporting information.

2. Amend § 208.1 to read as follows:

§ 208.1 Applicability.

This part contains terms, conditions and limitations on the operating authority of supplemental air carriers, including substantive regulations implementing paragraphs (1), (2), and (3) of section 401(n) of the Act. The requirements of this part shall constitute terms, conditions and limitations attached to certificates issued pursuant to section 401(d)(3) of the Act. The requirements shall also attach to special operating authorizations issued under section 417 or to exemptions issued under section 416 of the Act.

3. Amend § 208.3 in pertinent part to read as follows:

§ 208.3 Definitions.

For the purposes of this part:

* * * * *

(b) "Supplemental air carrier" means an air carrier holding a certificate issued under section 401(d)(3) of the Act, or a special operating authorization issued under section 417 of the Act.

(c) "Supplemental air transportation" means charter flights in air transportation performed pursuant to a certificate of public convenience and necessity issued under section 401(d)(3) of the Act (1) authorizing the holder to engage in supplemental air transportation of persons and property, between any point in any State of the United States or the District of Columbia, and any other point in any State of the United States or the District of Columbia (exclusive of air transportation within the State of Alaska) or in foreign or overseas supplemental air transportation or (2) authorizing the holder to engage in supplemental air transportation of persons and their personal baggage between points within the 48 contiguous States of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand.

* * * * *

(q) "Bona fide members" means those members of a charter organization who (1) have not joined the organization to participate in the charter as the result of solicitation directed to the general public; (2) are members at the time the organization first gives notice to its members of firm charter plans or at the time the charter contract is signed, whichever is earlier; and (3) are members for a minimum of 6 months prior to the starting flight date. Requirements in subparagraphs (2) and (3) of this paragraph herein are not applicable to charters composed of:

(i) Students and educational staff of a single school, and immediate families thereof;

(ii) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof; or

(iii) Participants in a study group.

* * * * *

(s) "Charter flight" means air transportation performed by supplemental air carriers in accordance with § 208.6 of this part.

(t) "Substitute service" means the performance by an air carrier of foreign or overseas air transportation, or air transportation between the 48 contiguous States, on the one hand, and the State of Alaska or Hawaii, on the other hand, in planeload lots pursuant to an agreement with another air carrier to fulfill such other air carrier's contractual obligations to perform such air transportation for the Department of Defense.

* * * * *

3. Add new §§ 208.6 and 208.7 to read as follows:

§ 208.6 Charter flight limitations.

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

(a) Air transportation of persons and/or property pursuant to contracts with the Department of Defense where the entire capacity of one or more aircraft has been engaged by the Department;

(b) Air transportation performed on a time, mileage or trip basis where the entire capacity of one or more aircraft has been engaged for the movement of persons and property (or of persons and their personal baggage in the case of supplemental air transportation as defined in § 208.3(c)(2) of this part):

(1) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic: *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons and/or their property, as agent or representative of such group;

(3) By an air freight forwarder or international air freight forwarder holding a currently effective operating authorization under Part 296 or Part 297 of this subchapter for the carriage of property in air transportation, or by a person authorized by the Board to transport by air used household goods of personnel of the Department of Defense; or

[14] A definition of "country" would also be added.

[15] The same requirement is in § 214.6(a)(3).

[16] Since the explanatory statement is directed mainly to amendments of Part 208 and Parts 207, 212, and 214 are to conform to Part 208, the proposals with respect to Part 208 are set forth first.

(4) By a tour operator or a foreign tour operator as defined in Part 378 of this chapter.

(c) Air transportation performed on a time, mileage or trip basis where less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage:

(1) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial passenger traffic: *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services), for the transportation of a group of persons and their personal baggage, as agent or representative of such group;

Provided, That with respect to paragraph (c) of this section a maximum of three groups may be chartered on one aircraft and each group shall consist of 40 or more passengers; and

Provided, further, That paragraph (c) of this section shall not be construed to apply to movements of property and shall not be construed to apply to the charter of less than the entire capacity of an aircraft by an indirect air carrier of a tour operator or a foreign tour operator.

§ 208.7 Unused space.

A supplemental air carrier may, with the written consent of the charterer(s), utilize any unused space for the transportation of

(a) The carrier's own personnel and property and/or

(b) The directors, officers, and employees of a foreign air carrier or another air carrier traveling pursuant to a pass interchange arrangement.

4. Amend paragraph (b) of § 208.12 to read as follows:

§ 208.12 Terms and conditions of insurance coverage.

* * * * *

(b) The liability of the insurer shall apply to all operations by the insured carrier in air transportation. The liability of the insurer shall not be subject to any exclusion by virtue of violations, by the insured carrier, of any applicable safety or economic provision of the Federal Aviation Act of 1958, as amended, or of any applicable safety or economic rule, regulation, order or other legally imposed requirement prescribed thereunder by the Federal Aviation Administration or the Civil Aeronautics Board, respectively.

* * * * *

5. Amend paragraph (f) of § 208.32 to read as follows:

§ 208.32 Tariffs and terms of service.

* * * * *

(f) In the case of a round-trip passenger charter, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported one way in each direction. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in order to avoid the 5 percent limitation aforesaid. In the case of a charter contract calling for two or more round trips, there shall be no intermingling of passengers, and each planeload or less than planeload group shall move as a unit in both directions, except as provided in § 208.36.

6. Add new § 208.36 to read as follows:

§ 208.36 Substitute transportation in emergencies.

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in § 241.03 of this subchapter) under the following circumstances:

(1) The passenger was transported by the carrier on an outbound charter flight;

(2) The transportation is for return passage only;

(3) When the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond the passenger's control; and

(4) The charter group with which the passenger is to travel expresses no objection to his participation in the charter flight.

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall mean illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

(b) In all cases where such substitute transportation is furnished, the carrier shall file a report with the Board within 30 days after the substitute transportation is provided setting forth the circumstances of the carriage. Such report shall include the name of the passenger; the name of his chartering organization; the name of the chartering organization with whom he traveled in substitute transportation; the date he was originally scheduled to return and the date on which he actually returned; a description of the circumstances which made the substitute transportation necessary; and the evidence which the carrier obtained to substantiate the need for substitute transportation (e.g., a doctor's certificate).

6a. Amend paragraph (b)(1) of § 208.32a to read as follows:

§ 208.32a Flight delays and substitute air transportation (foreign).

* * * * *

(b) *Incidental expenses.*[17] (1) On the return leg of a charter flight bound from a point outside the country where the charter originated and is to terminate, unless the air carrier causes an aircraft to finally enplane each passenger and commence the takeoff procedures at the airport of departure before the 6th hour following the time scheduled for the departure of such flight, it shall pay incidental expenses in accordance with the provisions of this paragraph. Such payments shall be made at the airport of departure as soon as they become due to the charterer, or its duly authorized agent, for the account of each passenger, including infants and children traveling at reduced fares. In the case of charter flights bound to or from the United States on the return leg, "country" as used in this paragraph means the 48 contiguous States of the United States.

* * * * *

7. Amend the title and the text of § 208.101 to read as follows:

§ 208.101 Minimum rates and compensation for air transportation performed for the Department of Defense.

The authority conferred upon a supplemental air carrier pursuant to a certificate of public convenience and necessity issued under section 401(d)(3) of the Act, insofar as it encompasses the right to provide air transportation pursuant to contract with the Department of Defense or any branch thereof in foreign or overseas air transportation, air transportation between the 48 contiguous States on the one hand and the State of Alaska or Hawaii on the other hand, or between military installations within the 48 contiguous States, shall be subject to the condition that the rate or compensation received by the carrier for any such air transportation is not less than that set forth in § 288.7 of this subchapter.

8. Amend § 208.150 to read as follows:

§ 208.150 Military backhaul exemption.

Subject to the provisions of this part and all other applicable rules, regulations, conditions, or requirements, supplemental air carriers are hereby exempted from the provisions of section 401 of the Act to the extent necessary to permit them to engage in overseas or foreign "supplemental air transportation" on the reverse leg of a charter performed in the opposite direction under a contract

[17] Although the requirements with respect to providing incidental expenses are made expressly applicable only to the return leg of a charter flight, the air carriers are expected, in the case of delay in departure of the originating leg of a flight, to furnish such incidental expenses to charter passengers whose homes are not located within a reasonable distance from the point of origination of the charter.

with the Department of Defense calling for one-way service.

9. Amend § 208.200 to read as follows:

§ 208.200 Applicability of subpart.

This subpart sets forth the special rules applicable to pro rata charters.

10. Amend the title and text of § 208.201 to read as follows:

§ 208.201 Pretrip notification and charter contract.

(a) Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this Part 208. The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier such information as specified in § 208.215. The carrier shall also require that the charterer and any travel agent involved shall furnish it at least 30 days prior to departure of the first flight the statements of supporting information required in §§ 208.218 and 208.204, respectively, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed.

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization or other qualified person authorizing the person who executes the contract to do so on behalf of the chartering organization.[17a] If the carrier executes a charter contract within 15 days of the flight date, the carrier shall require the person who executes the contract on behalf of the charterer to certify as to whether or not a contract for the flight has been canceled by another carrier because the chartering organization was found to be ineligible under the regulations. The carrier shall also notify the Board, within 5 days after the contract has been executed, that its execution took place within 15 days of flight date. Where the certification discloses, or the carrier has reason to believe, that a contract for the flight has been canceled by another carrier, the notification to the Board shall also state that the carrier has made an independent inquiry and has satisfied itself that such cancellation was not caused by the ineligibility of the chartering organization. If a charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 208.215) for the outbound charter shall be attached to the charter contract.

11. Add new §§ 208.202a, 208.202b, and 208.202c to read as follows:

§ 208.202a Prohibition on performing charters for certain types of organizations.

A carrier shall not perform a charter or charters for an organization which it knows, or has reason to know, has any of the following characteristics:

(a) The organization grants automatic membership to persons by reason of their being members of affiliated organizations or by reason of agreement between organizations;

(b) The organization is a council, federation, congress or other association of organizations;

(c) The organization includes a separate class of members who pay higher or lower dues or do not have equal voting rights;

(d) The organization's officers, directors or trustees are not elected by the general membership in elections held at least once every 2 years;

(e) The organization obtains members through arrangements with persons or organizations in the travel business;

(f) The organization pays a consideration to another entity or its officers when members of such other entity participate in charters of the organization, irrespective of whether such members directly or indirectly pay purported dues to the chartering organization;

(g) The organization receives part of its income from chartering activities and related arrangements to support its other activities;

(h) The organization's principal activity is the provision of travel arrangements and assistance for its members and it advertises in mass media for members;

(i) The organization's principal activity is providing goods and services to its members at a profit.

§ 208.202b Prohibition on performing charters involving certain activities of travel agents.

A carrier shall not perform a charter or charters with respect to which it knows, or has reason to know, that a travel agent or agents have engaged in the following activities:

(a) Advertising for or assisting in arranging for membership in the chartering organization or circulating advertising materials for the chartering organization which also solicit membership in the organization;

(b) Advancing the deposit or making other payments to the carrier on behalf of the organization;

(c) Receiving payment from the charterer for services in connection with the charter or making payments to the organization or its officers;

(d) Receiving payment from charter participants, except in connection with land-tour arrangements;

(e) Collecting membership, registration or other fees in connection with the charter or transmitting or issuing membership cards for the charter flights;

(f) Advertising the charter flight in mass media or distributing brochures or circulars to the general public soliciting participation in the charter;

(g) Offering to sell a land tour or tours in connection with the charter to members of the chartering organization who have not committed themselves to participate in the charter.

(h) Participating in preparing passenger lists and certification on behalf of the charterer.

§ 208.202c Statement of supporting information.

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute the statement of supporting information attached hereto and made a part hereof. If a charter contract covers more than one charter flight, a statement shall be filed for each one-way or round-trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the charter contract was signed.

12. Add new § 208.204 to read as follows:

§ 208.204 Statement of supporting information.

Travel agents shall execute, and furnish to air carriers, section A of Part II of the statement of supporting information attached hereto and made a part hereof, at such time as required by the carrier to afford it due time for review thereof.

13. Amend §§ 208.210 and 208.211 to read as follows:

§ 208.210 Solicitation of charter participants.

As the following terms are defined in § 208.3, members of the charter group may be solicited only from among the bona fide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. Charter participants solicited from organizations with a total membership of more than 20,000 shall be presumed to be solicited from the general public. This presumption shall not be applicable in the case of charters composed of (a) students and educational staff of a single school, and immediate families thereof, (b) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (c) participants in a study group. Rebuttal to this presumption may be offered for the Board's consideration by request for waiver. In the absence of waiver, an organization with a total membership of more than 20,000 shall not be eligible. Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the air carrier as the charterer. A chapter or unit thereof shall not solicit a national or regional organization with which it is associated with respect to charter flights. A charterer shall not advertise or solicit its members for any charter until a charter contract has been signed.

§ 208.211 Passengers on charter flights.

(a) Only bona fide members of the charterer, and their immediate families (except as provided in § 208.212) may

[17a] Not applicable where the charter is based on employment in one entity or student status at a college.

participate as passengers on a charter flight, and the participants must be members of the specific organization or chapter which authorized the charter. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member.[18] If total membership in a chartering organization is 1,000 or more, the charterer shall inform the carrier where the central membership list is maintained. If the total membership is less than 1,000, a list showing the names and addresses of members in good standing shall be furnished the carrier within 30 days after the charter contract is signed or at the time the contract is signed, if it is signed within six months of flight date: *Provided, however,* That this requirement is not applicable to college campus or study group charters, nor to charters limited to employees of a single Government agency, industrial plant or mercantile company.

(b) Where the charterer is engaging in round-trip transportation, one-way passengers shall not participate in the charter flight except as provided in § 208.32(f). When more than one round trip is contracted for, intermingling between flights or reforming of planeload or less than planeload charter groups shall not be permitted, and each group must move as a unit in both directions, except as proivded in § 208.36.

14. Amend § 208.213 to read in part as follows:

§ 208.213 Charter costs.

(a) The costs of charter flights shall be prorated equally among all charter passengers and no charter passenger shall be allowed free transportation; except that (1) children under 12 years of age may be transported at a charge less than the equally prorated charge and (2) children under 2 years of age may be transported free of charge. The chartering organization, in any announcement giving price per seat, shall state that the seat price is a pro rata share of total charter cost and is subject to increase or decrease depending on the number of participants. All announcements shall separately state the total cost of the entire trip, and shall separately state the cost of air transportation and accommodations, if any, and identify the carrier and the number of seats available and the type of aircraft to be used for that charter.

* * * * *

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Total charges (excluding transportation and land tours) shall not exceed $2 per passenger on one-way charters and $4 per passenger for round-trip charters. Neither the organizers of the charter, nor any member of the chartering organization, may receive any gratuities or compensation, direct or indirect, from the carrier, the travel agent, or any organization which provides any service to the chartering organization whether of an air transportation nature or otherwise in connection with the proposed charter. Nothing in this section shall preclude a member of a chartering organization who is the carrier's agent from receiving a commission from the carrier (within the limits of § 208.202), or prevent any member of the charter group from accepting such advertising and goodwill items as are customarily extended to individually ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

(d) Properly authenticated vouchers supporting the expenditures referred to in paragraph (c) of this section shall be available for inspection at the request of charter participants.

15. Amend § 208.215 and add new §§ 208.216, 208.217, and 208.218 to read as follows:

§ 208.215 Passenger lists.

(a) Prior to each one-way or round-trip flight a list shall be filed by the charterer with the air carrier showing the names and addresses of the persons to be transported, including stand-bys, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger list as follows:

(1) A bona fide member of the chartering organization at the time the organization first gave notice to its members of firm charter plans and who will have been a bona fide member of the chartering organization for at least six months prior to the starting flight date. Specify on the passenger list as "(1) member."

(2) The spouse, dependent child or parent of a bona fide member who lives in such member's household. Specify on the passenger list as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or a college campus, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger list as "(3) special" or "(3) member" (where participants are from a study or campus group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the outbound and inbound trips must be explained on the list.

(d) Attached to such list must be a certification, signed by a duly authorized representative of the charterer, reading:

> The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization at the time the chartering organization first gave notice to its members of firm charter plans, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and educational staff of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a study group charter.
>
> ---
> (Signature)

§ 208.216 Seat limitations.

A chartering organization shall be limited to 2,000 seats, whether on a one-way or round-trip basis, per calendar year. This limitation may be waived by the Board upon application therefor.

§ 208.217 Application for a charter.

A chartering organization shall make written application to the air carrier, setting forth the number of seats desired, points to be included in the proposed flight or flights, dates of departure for each one-way or round-trip flight, and the number of seats contracted for with the same or other carriers during the calendar year.

§ 208.218 Statement of supporting information.

Charterers shall execute and file with the air carriers section B of Part II of the statement of supporting information attached hereto and made a part hereof at such time as required by the carrier to afford it due time for review thereof.

16. Amend § 208.300 to read as follows:

§ 208.300 Applicability of subpart.

This subpart sets forth the special rules applicable to single entity charters.

17. Amend § 208.400 to read as follows:

§ 208.400 Applicable rules.

The rules set forth in Subpart C of this part shall apply in the case of mixed charters.

STATEMENT OF SUPPORTING INFORMATION*

PART I—To be completed by air carrier for each single entity, mixed, or pro rata charter. (Where more than one round-trip flight is

[18] Where the charter is based on employment in one entity or student status at a college, records of the corporation, agency, or college will suffice to meet the requirements.

*This must be retained by the air carrier for 2 years pursuant to the requirements of Part 249, but open to Board inspection, and to be filed with the Board on demand.

to be performed under the charter contract, clearly indicate applicability of answers.)

1. Name of transporting carrier:_____
2. Commencement date(s) of proposed flight(s):
   (a) Going_____
   (b) Returning_____
3. Points to be included in proposed flight(s):
   (a) From _____ to _____
   (b) Returning from _____ to _____
   (c) Other stops required by charterer:
   (d) Technical stops required by carrier:
   (e) Planned routing:_____
4. (a) Type of aircraft to be used:_____
   (b) Seating capacity:_____
   (c) Number of persons to be transported:
5. (a) Total charter price:_____
   (b) Does the charter price conform to tariff on file with the Board?_____
   (c) If pro rata or mixed charter, explain construction of charter price in relation to tariff on file with the Board. (In case of mileage tariff, show mileage for each segment involved and indicate whether segment is live or ferry.)_____
6. (a) Has the carrier paid, or does it contemplate payment of any commissions, direct or indirect, in connection with the proposed flight? Yes [ ] No [ ]
   (b) If "yes" give names and addresses of such recipients and indicate the amount paid or payable to each recipient. If any commission to a travel agent exceeds 5 percent of the total charter price, attach a statement justifying the higher amount under this regulation.
7. (a) Will the carrier or any affiliate provide any services or perform any functions in addition to the actual air transportation? Yes [ ] No [ ]
   (b) If "yes" describe services or functions:
8. Name and address of charterer:_____
9. If charter is single entity, indicate purpose of flight:_____
10. On what date was the charter contract executed?_____
11. If the charter is pro rata, has a copy of Part 208 of the Civil Aeronautics Board's Economic Regulations been mailed to or delivered to the prospective charterer? Yes [ ] No [ ]

PART II—To be completed for pro rata or mixed charters only.

Section A—To be supplied by travel agent, or where none, by the air carrier or an affiliate under its control where either of the latter performs or provides any travel agency function or service (excluding air transportation sales but including land tour arrangements).

1. What specific services have been or will be provided by agent to charterer on a group basis?
2. What specific services have been or will be provided by agent to individual participants in the proposed charter?
3. Has the agent or, to his knowledge, have any of his principals, officers, directors, associates or employees compensated any member of the chartering organization in relation either to the proposed charter flight or any land tour? Yes [ ] No [ ]
4. Does the agent have any financial interest in any organization rendering services to the chartering organization? Yes [ ] No [ ] If answer is "yes" explain:
5. With respect to the proposed charter,
   (a) has the agent advertised for or assisted in arranging for membership in the chartering organization or circulated advertising materials for the organization which also solicited membership in the organization? Yes [ ] No [ ]
   (b) has the agent advanced the deposit or made other payments to the carrier on behalf of the organization? Yes [ ] No [ ]
   (c) has the agent received payment from the charterer for services in connection with the charter or made payments to the organization or its officers? Yes [ ] No [ ]
   (d) has the agent received payment from charter participants, except in connection with land tour arrangements? Yes [ ] No [ ]
   (e) has the agent collected membership, registration or other fees in connection with the charter or transmitted or issued membership cards for the charter flight? Yes [ ] No [ ]
   (f) has the agent advertised the charter flight in mass media or distributed brochures or circulars to the general public soliciting participation in the charter? Yes [ ] No [ ]
   (g) has the agent participated in preparing passenger lists and certification on behalf of the charterer? Yes [ ] No [ ]
   (h) has the agent offered to sell a land tour or tours in connection with the charter to members of the organization who had not committed themselves to participate in the charter? Yes [ ] No [ ]

WARRANTY [1]

I, _____ represent and
(Name)
warrant that I have acted with regard to this charter operation (except to the extent fully and specifically explained in Part II, Section A) and will act with regard to such operation in a manner consistent with Part 208 of the Board's Economic Regulations.

_____ _____
(Date) (Signature and address of travel agent or, if none, of authorized official of air carrier where such carrier or an affiliate under its control performs any travel agency function or service (excluding air transportation sales but including land tour arrangements).)

[1] Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C., § 1001.

Section B—To be supplied by charterer:

1. Description of chartering organization, including its objectives and purposes:
2. What activities are sponsored by the chartering organization?
3. When was the organization founded?
4. Qualification or requirements for membership in organization and membership fee, if any:_____
5. Has there been any reference to prospective charter flights in soliciting new members for the charter organization? Yes [ ] No [ ]
6. If total membership in the chartering organization is less than 1,000, submit list showing names and addresses of members in good standing.[2] If total membership in the chartering organization is 1,000 or more, state where a list of members is available for inspection.
7. Attach list of prospective passengers (including "standbys" and one-way passengers designated as such), showing for each: (a) Name and address; (b) Relationship of such person to chartering organization, i.e., member, spouse, dependent child, parent, or "special" (a person whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver); (c) If such person is related to a member who is not a prospective passenger, the member's name and address; and (d) Date member joined or last renewed a lapsed membership. (NOTE: This is a list of prospective passengers and does not necessarily have to represent the passengers actually to be carried. The list is to be amended, if passengers are dropped or added before flights, and the certification required by § 208.215 must be attached to the list.)
8. Purpose of trip:_____
9. What are requirements for participation in charter?_____
10. How were prospective participants for charter solicited (attach any solicitation material)?
11. Will there be any participants in the charter flight other than (1) members of the chartering organization or (2) spouse, dependent children, and parents of a member of the chartering group residing in the same household with the member? Yes [ ] No [ ]
12. Will there be any members of the chartering organization participating in the charter who will have been members of the organization for a period of less than 6 months prior to flight date?[2] Yes [ ] No [ ] If answer is "yes", give names of participants who will not have been members for 6 months:_____
13. If there is any intermediary involved in the charter, other than the travel agent whose participation is described in Part II, Section A, submit name, address, remuneration, and scope of activity:_____

[2] Not applicable to college campus or study-group charters, nor to charters limited to employees of a single Government agency, industrial plant or mercantile company.

14. Estimated receipts:
_____ × _____ =
(Pro rata charge) (No. of passengers)
$ _____
(Estimated receipts from charter)

Estimated receipts from other sources, if any: _____
Explain: _____
_____
(a) Total receipts: $ _____
Estimated expenditures, including aircraft charter (separately itemize air transportation, land tour, and administrative expenses):

Item	*Amount*	*Payable to*
_____	_____	_____
_____	_____	_____
_____	_____	_____

(b) Total expenditures: $ _____
Explain any difference between (a) and (b): _____
_____

15. Are any of the expenses included in Item 14, above, to be paid to any members of the chartering organization? Yes [ ] No [ ] If "yes" state how much, to whom and for what services: _____
_____

16. Is any member of the chartering organization to receive any compensation or benefit directly or indirectly from the air carrier, the travel agent, or any organization providing services in relation to the air or land portion of the trip? Yes [ ] No [ ] If "yes" explain fully: _____
_____
_____

17. Will any person in the group (except children under 2 years) be transported without charge? Yes [ ] No [ ]

18. Will charter costs be divided equally among charter participants, except to the extent that a lesser charge is made for children under 12 years old? Yes [ ] No [ ]

19. Separately state for the outbound and inbound flights the number of one-way passengers anticipated to be transported in each direction:
_____
_____

20. If more than one round trip is contracted for, will each group move as a unit in both directions? Yes [ ] No [ ]
_____

21. If charters have been performed for organization during past 5 years, give dates and name of carrier performing charters:
_____
_____

22. Does the chartering organization grant automatic membership to persons by reason of their being members of affiliated organizations or by reason of agreement with another organization? Yes [ ] No [ ]

23. Is the chartering organization a council, federation, congress, or other association of organizations? Yes [ ] No [ ]

24. Does the chartering organization have a separate class of members who pay higher or lower dues or do not have equal voting rights? Yes [ ] No [ ]

25. Are the chartering organization's officers, directors or trustees elected by the general membership in elections held at least once every 2 years? Yes [ ] No [ ]

26. Does the organization obtain members through arrangements with persons or organizations in the travel business? Yes [ ] No [ ]

27. Does the organization pay a consideration to another entity or its officers when members of such other entity participate in charters of the organization, irrespective of whether such members directly or indirectly pay purported dues to the chartering organization? Yes [ ] No [ ]

28. Does the organization receive a part of its income from chartering activities and related arrangements to support its other activities? Yes [ ] No [ ]

29. Is the principal activity of the chartering organization the provision of travel arrangements and assistance for members? Yes [ ] No [ ]

30. Is the chartering organization's principal activity the providing of goods and services to its members at a profit? Yes [ ] No [ ]

31. Has a copy of Part 208 "Terms, Conditions and Limitations of Certificates to Engage in Supplemental Air Transportation," of the Economic Regulations of the Civil Aeronautics Board been received by the charterer? Yes [ ] No [ ]

32. Attach copies of all announcements of the chartering organization in connection with the charter issued after the charter contract is signed.

WARRANTY OF CHARTERER [1]

I, _____ and _____
(Name)
_____ represent and warrant that
(Name)
the charterer has acted with regard to this charter operation (except to the extent fully and specifically explained in Part II, Section B), and will act with regard to such operation, in a manner consistent with Part 208 of the Board's Economic Regulations. I (we) further represent and warrant that the charterer has not offered charter flights simultaneously with the solicitation of membership in the chartering organization in any mass media advertising or notice or through direct mailing or public posters. I (we) further represent and warrant that all charter participants have been informed of eligibility and cost requirements of Part 208 and that a flight may be canceled if ineligible participants are included.

_____ _____
(Date) (Signature—person within organization in charge of charter arrangements)

_____
(Signature and title of officer. This should be the chief officer of the chartering organization except in the case of a school charter, in which case the warranty must be by school official not directly involved in charter.)

WARRANTY OF AIR CARRIER [1]

To the best of my knowledge and belief all the information presented in this statement, including but not limited to, those parts warranted by the charterer and the travel agent, is true and correct. I represent and warrant that the carrier has acted with regard to this charter operation (except to the extent fully and specifically explained in this statement or any attachment thereto) and will act with regard to such operation in a manner consistent with Part 208 of the Board's Economic Regulations. I further represent and warrant that the carrier has checked the membership list of the chartering organization and that such list shows the date each member joined the organization (or renewed a lapsed membership) and the amount and date of dues paid; that the carrier has compared the list of names on the passenger list of the charter against the names shown on the official membership records of the charterer to insure that participation is limited to eligible persons; that the carrier has checked the articles of incorporation or association, bylaws, etc. to insure that the organization is bona fide; and that the carrier has made a record of the officers and directors or trustees of the organization.

_____ _____
(Date) (Signature and title of authorized official of air carrier)

[1] Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C., § 1001.

Part 207. 18. Amend the Table of Contents by adding a title to new § 207.11 and by adding new Subparts A, B, and C. As amended the Table of Contents will read in pertinent part:

Sec.

* * * * *

207.11 Waiver.

* * * * *

Subpart A—Provisions Relating to Pro Rata Charters

207.20 Applicability of subpart.

REQUIREMENTS RELATING TO AIR CARRIERS

207.21 Charter flight limitations.
207.22 Unused space.
207.23 Terms of service.
207.24 Substitute transportation in emergencies.
207.25 Passenger names and addresses.
207.26 Payments, gratuities and donations.
207.27 Solicitation and formation of charter groups.
207.28 Pretrip notification and charter contract.
207.29 Agent's commission.
207.30 Prohibition on performing charters for certain types of organizations.
207.31 Prohibition on performing charters involving certain activities of travel agents.
207.32 Statement of supporting information.

REQUIREMENTS RELATING TO TRAVEL AGENTS

207.40 Prohibition against double compensation.
207.41 Statement of supporting information.

REQUIREMENTS RELATING TO CHARTERING ORGANIZATION

207.50 Solicitation of charter participants.
207.51 Passengers on charter flights.
207.52 Participation of immediate families in charter flights.
207.53 Charter costs.
207.54 Statements of charges.
207.55 Passenger lists.
207.56 Seat limitations.
207.57 Application for a charter.
207.58 Statement of supporting information.

Subpart B—Provisions Relating to Single Entity Charters

207.60 Applicability of subpart.
207.61 Terms of service.
207.62 Commissions paid to travel agents.

Subpart C—Provisions Relating to Mixed Charters

207.70 Applicable rules.

19. Amend § 207.1 by revising the definition of "charter trip", "mixed charter" and "on-route" [1] and adding new definitions of "bona fide members", "charter flight", "charter group", "charter organization", "immediate family", "pro rata charter", "single entity charter", "solicitation of the general public", "study group" and "travel agent", as follows:

§ 207.1 Definitions.

As used in this part, unless the context otherwise requires:

* * * * *

"Bona fide members" means those members of a charter organization who (1) have not joined the organization to participate in the charter as the result of solicitation directed to the general public; (2) are members at the time the organization first gives notice to its members of firm charter plans or at the time the charter contract is signed, whichever is earlier; and (3) are members for a minimum of 6 months prior to the starting flight date. Requirements (2) and (3) herein are not applicable to charters composed of:

(a) Students and educational staff of a single school, and immediate families thereof;

(b) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof; or

(c) Participants in a study group.

"Charter flight" means air transportation performed in accordance with § 207.21 of this part.

"Charter group" means that body of individuals who shall actually participate in the charter flight.

"Charter organization" means that organization, group, or other entity from whose members (and their immediate families) a charter group is derived.

"Charter trip" means air transportation performed in accordance with § 207.21 of this part.

* * * * *

"Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely, the spouse, dependent children, and parents, of such member.

"Mixed charter" means a charter, the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

"On-route" shall refer to service performed by an air carrier between points between which said carrier is authorized to provide service pursuant to either its certificate of public convenience and necessity or exemption authority: *Provided, however,* That passenger charter trips by any all-cargo carrier are not considered to be on-route whether or not they are performed between points designated to receive service by such carrier in its certificate of public convenience and necessity, except that in the event services are performed pursuant to a contract with the Department of Defense or an agency thereof, by an all-cargo carrier between points designated to receive service by such carrier in its certificate of public convenience and necessity which (1) involves cargo transportation in one direction and passenger transportation in the other direction or (2) involves a charter trip in which passengers and cargo are carried on the same flight, the passenger charter leg or the mileage operated in such charter, as the case may be, will be considered on-route.

* * * * *

"Pro rata charter" means a charter, the cost of which is divided among the passengers transported.

"Single entity charter" means a charter, the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

"Solicitation of the general public" means:

(1) A solicitation going beyond the bona fide members of an organization (and their immediate families). This includes air transportation services offered by an air carrier under circumstances in which the services are advertised in mass media, whether or not the advertisement is addressed to members of a specific organization, and regardless of who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations, and college newspapers shall not be considered advertising in mass media to the extent that

(i) The advertising is placed in a medium of communication circulated mainly to members of an organization that would be eligible to obtain charter service, and

(ii) The advertising states that the charter is open only to members of the organization referred to in subdivision (i) of this subparagraph, or only to members of a subgroup thereof. In this context, a subgroup shall be any group with membership drawn primarily from members of the organization referred to in subdivision (i) of this subparagraph: *Provided,* That this paragraph shall not be construed as prohibiting air carrier advertising which offers charter services to bona fide organizations, without reference to a particular organization or flight.

(2) The solicitation, without limitation, of the members of an organization so constituted as to ease of admission to membership, and nature of membership, as to be in substance more in the nature of a segment of the public than a private entity.

"Study group" means a charter group comprised of bona fide participants in a formal academic study course abroad and in which (1) the charterer is an educational institution or (2) such study course is for a period of at least 4 weeks' duration at an educational institution abroad. As used in this paragraph, the term "educational institution" means a bona fide school which (i) is empowered to grant college degrees or secondary school diplomas by the government of one of the 50 States of the United States, the District of Columbia, a U.S. territory or possession or a foreign country and (ii) is operated as a school on a year-round basis. An aircraft may carry a maximum of three study groups: *Provided,* That if more than one group is carried each of the groups shall consist of 40 or more study group participants: *And provided, further,* That the entire aircraft is chartered to a single study group charterer.

"Travel agent" means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

20. Amend § 207.4 to read as follows:

§ 207.4 Tariffs to be filed for charter trips and special services.

No air carrier shall perform any charter trips or other special services unless such air carrier shall have on file with the Board a currently effective tariff showing all rates, fares, and charges for such charter trips and other special services, and showing the rules, regulations, practices, and services in connection with such transportation including the eligibility requirements for charter groups not inconsistent with those established in this part.

21. Add a new paragraph (c) to § 207.9 to read as follows:

§ 207.9 Records and record retention.

Each air carrier shall obtain and retain the following records in accordance with Part 249 of this subchapter:

* * * * *

(c) Every statement of supporting information and proof of the commission paid to any travel agent for each pro rata charter trip.

22. Add a new § 207.11 to read as follows:

§ 207.11 Waiver.

A waiver of any of the provisions of this part may be granted by the Board upon the submission by an air carrier of a written request therefor not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

23. Adopt new Subparts A, B and C to read as follows:

[1] The definitions of "mixed charter" and "on-route" are revised in order to conform the former with the definition set forth in Part 208.

Subpart A—Provisions Relating to Pro Rata Charters

§ 207.20 Applicability of subpart.

This subpart sets forth the special rules applicable to pro rata charters, both on-route and off-route.

REQUIREMENTS RELATING TO AIR CARRIERS

§ 207.21 Charter flight limitations.

(a) Charter flights (trips) shall be limited to air transportation performed by an air carrier holding a certificate of public convenience and necessity where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage or for the movement of property, on a time, mileage or trip basis:

(1) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic: *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 207.10);

(2) By a person (no part of whose business is the formation of groups for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons as agent or representative of such group;

(3) By an air freight forwarder holding a currently effective operating authorization issued under Part 296 or Part 297 of this subchapter for the carriage of property in air transportation;

(4) By a person authorized by the Board to transport by air used household goods of personnel of the Department of Defense;

(b) Within the meaning of this part, a charter trip shall not be deemed to include transportation services offered by an air carrier to individual members of the general public or performed by an air carrier under an arangement with a person (other than an air freight forwarder defined in subparagraph (3) or a person defined in subparagraph (4) of paragraph (a)) who provides or offers to provide transportation to the general public, or transportation services engaged by persons paying for such services an amount aggregating in excess of the transporting carrier's duly published charter rate or fare.

§ 207.22 Unused space.

An air carrier may, with the written consent of the charterer(s), utilize any unused space for the transportation of (a) the carrier's own personnel and property and/or (b) the directors, officers, and employees of a foreign air carrier or another air carrier traveling pursuant to a pass interchange arrangement.

§ 207.23 Terms of service.

(a) The total charter price and other terms of service rendered pursuant to this part shall conform to those set forth in the applicable tariff on file with the Board and in force at the time of the respective charter flight and the contract must be for the entire capacity of one or more aircraft. Where a carrier's charter charge computed according to a mileage tariff includes a charge for ferry mileage, the carrier shall refund to the charterer any sum charged for ferry mileage which is not in fact flown in the performance of the charter: *Provided*, That the carrier shall not charge the charterer for ferry mileage flown in addition to that stated in the contract unless such mileage is flown for the convenience of and at the express direction of the charterer.

(b) The carrier shall require full payment of the total charter price or the posting of a satisfactory bond for full payment prior to the commencement of the air transportation.

(c) In the case of a round-trip passenger charter, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported one way in each direction. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in order to avoid the 5-percent limitation aforesaid. In the case of a charter contract calling for two or more round trips, there shall be no intermingling of passengers and each planeload group shall move as a unit in both directions except as provided in § 207.24.

§ 207.24 Substitute transportation in emergencies.

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in § 241.03 of this subchapter) under the following circumstances:

(1) The passenger was transported by the carrier on an outbound charter flight;

(2) The transportation is for return passage only;

(3) When the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond the passenger's control; and

(4) The charter group with which the passenger is to travel expresses no objection to his participation in the charter flight.

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall mean illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

(b) In cases where such substitute transportation is furnished, the carrier shall file a report with the Board within 30 days after the substitute transportation is provided setting forth the circumstances of the carriage. Such report shall include the name of the passenger; the name of his chartering organization; the name of the chartering organization with whom he traveled in substitute transportation; the date he was originally scheduled to return and the date on which he actually returned; a description of the circumstances which made the substitute transportation necessary; and the evidence which the carrier obtained to substantiate the need for substitute transportation (e.g., a doctor's certificate).

§ 207.25 Passenger names and addresses.

Each air carrier shall maintain a record of the names and addresses of all passengers transported on each pro rata charter trip. Such record shall be retained in accordance with Part 249 of this subchapter except that it may be maintained at either the principal office or the principal operations base of the carrier.

§ 207.26 Payments, gratuities and donations.

(a) Neither a carrier nor a travel agent shall make any payments or extend gratuities of any kind, directly or indirectly, to any member of a chartering organization in relation either to air transportation or land tours or otherwise.

(b) Neither a carrier nor a travel agent shall make any donation to a chartering organization or an individual charter participant.

(c) Nothing in this section shall preclude a carrier from paying a commission (within the limits of §§ 207.29 and 207.62) to a member of a chartering organization if such member is its agent, or restrict a carrier or a travel agent from offering to each member of the charter group such advertising and goodwill items as are customarily extended to individually ticketed passengers (e.g., canvas traveling bag or a money exchange computer).

§ 207.27 Solicitation and formation of a chartering group.

(a) A carrier shall not engage, directly or indirectly, in any solicitation of individuals (through personal contact, advertising, or otherwise) as distinguished from the solicitation of an organization for a charter trip, except after a charter contract has been signed.

(b) A carrier shall not employ, directly or indirectly, any person for the purpose of organizing and assembling members of any organization, club, or other entity into a group to make the charter flight, except after a charter contract has been signed.

§ 207.28 Pretrip notification and charter contract.

(a) Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this Part 207. The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier such information as specified in § 207.55. The carrier shall also require that the charterer and any travel agent involved shall

furnish it at least 30 days prior to departure of the first flight the statements of supporting information required in §§ 207.58 and 207.41, respectively, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed.

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization, or other qualified person, authorizing the person who executes the contract to do so on behalf of the chartering organization.[18a]

If the carrier executes a charter contract within 15 days of the flight date, the carrier shall require the person who executes the contract on behalf of the charterer to certify as to whether or not a contract for the flight has been canceled by another carrier because the chartering organization was found to be ineligible under the regulations. The carrier shall also notify the Board, within 5 days after the contract has been executed, that its execution took place within 15 days of flight date. Where the certification discloses, or the carrier has reason to believe, that a contract for the flight has been canceled by another carrier, the notification to the Board shall also state that the carrier has made an independent inquiry and has satisfied itself that such cancellation was not caused by the ineligibility of the chartering organization. If a charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list of the outbound charter shall be attached to the charter contract.

§ 207.29 Agent's commission.

The carrier shall not pay its agent a commission or any other benefits, directly or indirectly, in excess of 5 percent of the total charter price as set forth in the carrier's charter tariff on file with the Board, or more than the commission related to charter flights paid to an agent by a carrier certificated to render regular service on the same route, whichever is greater. The carrier shall not pay any commission whatsoever to an agent if the agent receives a commission from the charterer for the same service.

§ 207.30 Prohibition on performing charters for certain types of organizations.

A carrier shall not perform a charter or charters for an organization which it knows, or has reason to know, has any of the following characteristics:

(a) The organization grants automatic membership to persons by reason of their being members of affiliated organizations or by reason of agreement between organizations;

(b) The organization is a council, federation, congress or other association of organizations;

(c) The organization includes a separate class of members who pay higher or lower dues or do not have equal voting rights;

(d) The organization's officers, directors or trustees are not elected by the general membership in elections held at least once every 2 years;

(e) The organization obtains members through arrangements with persons or organizations in the travel business;

(f) The organization pays a consideration to another entity or its officers when members of such other entity participate in charters of the organization, irrespective of whether such members directly or indirectly pay purported dues to the chartering organization;

(g) The organization receives a part of its income from chartering activities and related arrangements to support its other activities;

(h) The organization's principal activity is the provision of travel arrangements and assistance for its members and it advertises in mass media for members;

(i) The organization's principal activity is providing goods and services to its members at a profit.

§ 207.31 Prohibition on performing charters involving certain activities of travel agents.

A carrier shall not perform a pro rata charter or charters with respect to which it knows, or has reason to know, that a travel agent or agents have engaged in the following activities:

(a) Advertising for or assisting in arranging for membership in the chartering organization or circulating advertising materials for the chartering organization which also solicit membership in the organization;

(b) Advancing the deposit or making other payments to the carrier on behalf of the organization;

(c) Receiving payment from the charterer for services in connection with the charter or making payments to the organization or its officers;

(d) Receiving payment from charter participants, except in connection with land-tour arrangements;

(e) Collecting membership, registration or other fees in connection with the charter or transmitting or issuing membership cards for the charter flights;

(f) Advertising the charter flight in mass media or distributing brochures or circulars to the general public soliciting participation in the charter;

(g) Offering to sell a land tour or tours in connection with the charter to members of the chartering organization who have not committed themselves to participate in the charter;

(h) Participating in preparing passenger lists and certification on behalf of the charterer.

§ 207.32 Statement of supporting information.

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute, the statement of supporting information attached hereto and made a part hereof.[20] If a charter contract covers more than one charter flight, a statement shall be filed for each one-way or round-trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the charter contract was signed.

REQUIREMENTS RELATING TO TRAVEL AGENTS

§ 207.40 Prohibition against double compensation.

A travel agent may not receive a commission from both the direct air carrier and the charterer for the same service.

§ 207.41 Statement of supporting information.

Travel agents shall execute, and furnish to air carriers, section A of part II of the statement of supporting information attached hereto and made a part hereof, at such time as required by the carrier to afford it due time for review thereof.

REQUIREMENTS RELATING TO CHARTERING ORGANIZATION

§ 207.50 Solicitation of charter participants.

As the following terms are defined in § 207.1, members of the charter group may be solicited only from among the bona fide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. Charter participants solicited from organizations with a total membership of more than 20,000 shall be presumed to be solicited from the general public. This presumption shall not be applicable in the case of charters composed of (a) students and educational staff of a single school, and immediate families thereof, (b) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (c) participants in a study group. Rebuttal to this presumption may be offered for the Board's consideration by request for waiver. In the absence of waiver an organization with a total membership of more than 20,000 shall not be eligible. Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the air carrier as the charterer. A chapter or unit thereof shall not solicit a national or regional organization with which it is associated with respect to charter flights. A charterer shall not advertise, or solicit its members for any charter until a charter contract has been signed.

§ 207.51 Passengers on charter flights.

(a) Only bona fide members of the charterer, and their immediate families

[18a] Not applicable where the charter is based on employment in one entity or student status at a college.

[20] The statement of supporting information would be in the form set forth following the amendments to Part 208, supra.

(except as provided in § 207.52) may participate as passengers on a charter flight, and the participants must be members of the specific organization or chapter which authorized the charter. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member.[2] If total membership in a chartering organization is 1,000 or more, the charterer shall inform the carrier where the central membership list is maintained. If the total membership is less than 1,000, a list showing the names and addresses of members in good standing shall be furnished the carrier within 30 days after the charter contract is signed or at the time the contract is signed, if it is signed within 6 months of flight date; *Provided, however,* That this requirement is not applicable to college campus or study group charters, nor to charters limited to employees of a single Government agency, industrial plant or mercantile company;

(b) Where the charterer is engaging in round-trip transportation, one-way passengers shall not participate in the charter flight except as provided in § 207.23(c). When more than one round trip is contracted for, intermingling between flights or reforming of planeload charter groups shall not be permitted, and each group must move as a unit in both directions, except as provided in § 207.24.

§ 207.52 Participation of immediate families in charter flights.

The immediate family of any bona fide member of a charter organization may participate in a charter flight: *Provided, however,* That this section shall not apply to study group charters as defined herein (§ 207.1).

§ 207.53 Charter costs.

(a) The costs of charter flights shall be prorated equally among all charter passengers and no charter passenger shall be allowed free transportation; except that (1) children under 12 years of age may be transported at a charge less than the equally prorated charge; and (2) children under 2 years of age may be transported free of charge. The chartering organization, in any announcement giving price per seat, shall state that the seat price is a pro rata share of total charter cost and is subject to increase or decrease depending on the number of participants. All announcements shall separately state the total cost of the entire trip, and shall separately state the cost of air transportation and accommodations, if any, and identify the carrier and the number of seats available and the type of aircraft to be used for that charter.

(b) The charterer shall not make charges to the charter participants which exceed the actual costs incurred in consummating the charter arrangements, nor include as a part of the assessment for the charter flight any charge for purposes of charitable donations. All charges related to the charter flight arrangements collected from the charter participants which exceed the actual costs thereof shall be refunded to the participants in the same ratio as the charges were collected.

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Total charges (excluding transportation and land tours) shall not exceed $2 per passenger on one-way charters and $4 per passenger for round-trip charters. Neither the organizers of the charter, nor any member of the chartering organization, may receive any gratuities or compensation, direct or indirect from the carrier, the travel agent, or any organization which provides any service to the chartering organization whether of an air transportation nature or otherwise in connection with the proposed charter. Nothing in this section shall preclude a member of a chartering organization who is the carrier's agent from receiving a commission from the carrier (within the limits of § 207.29), or prevent any member of the charter group from accepting such advertising and goodwill items as are customarily extended to individually ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

(d) Properly authenticated vouchers supporting the expenditures referred to in paragraph (c) of this section shall be available for inspection at the request of charter participants.

§ 207.54 Statements of charges.

Any announcements or statements by the charterer to prospective charter participants of the anticipated individual charge for the charter shall clearly identify the portion of the charges to be paid separately for air transportation, for the land tour, and for the administrative expenses of the charterer.

§ 207.55 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names and addresses of the persons to be transported, including stand-bys, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger list as follows:

(1) A bona fide member of the chartering organization at the time the organization first gave notice to its members of firm charter plans and who will have been a bona fide member of the chartering organization for at least 6 months prior to the starting flight date. Specify on the passenger list as "(1) member."

(2) The spouse, dependent child or parent of a bona fide member who lives in such member's household. Specify on the passenger list as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or a college campus, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger list as "(3) special" or "(3) member" (where participants are from a study or campus group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the outbound and inbound trips must be explained on the list.

(d) Attached to such list must be a certification, signed by a duly authorized representative of the charterer, reading:

> The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization at the time the chartering organization first gave notice to its members of firm charter plans, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and educational staff of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a study group charter.
>
> ----------
> (Signature)

§ 207.56 Seat limitations.

A chartering organization shall be limited to 2,000 seats, whether on a one-way or round-trip basis, per calendar year. This limitation may be waived by the Board upon application therefor.

§ 207.57 Application for a charter.

A chartering organization shall make written application to the air carrier, setting forth the number of seats desired, points to be included in the proposed flight or flights, dates of departure for each one-way or round-trip flight, and the number of seats contracted for with the same or other carriers during the calendar year.

[2] Where the charter is based on employment in one entity or student status at a college, records of the corporation, agency or college will suffice to meet the requirement.

§ 207.58 Statement of supporting information.

Charterers shall execute and file with the air carrier section B of part II of the statement of supporting information attached hereto and made a part hereof at such time as required by the carrier to afford it due time for review thereof.

Subpart B—Provisions Relating to Single Entity Charters

§ 207.60 Applicability of subpart.

This subpart sets forth the special rules applicable to single entity charters.

§ 207.61 Terms of service.

The provisions of § 207.23 shall apply to charters under this subpart except that paragraphs (b) and (c) of such section shall not be applicable.

§ 207.62 Commissions paid to travel agents.

No direct air carrier shall pay a travel agent any commission in excess of 5 percent of the total charter price or more than the commission related to charter flights paid to an agent by a carrier certificated to fly the same route, whichever is greater.

Subpart C—Provisions Relating to Mixed Charters

§ 207.70 Applicable rules.

The rules set forth in Subpart A of this part shall apply in the case of mixed charters.

Part 212. 23. Amend the Table of Contents by (a) revising the title of § 212.3; (b) adding a title to new § 212.8; and (c) adding new Subparts A, B, and C, to read:

Sec.

* * * * *

212.3 Tariffs to be filed for charter trips.

* * * * *

212.8 Waiver.

* * * * *

Subpart A—Provisions Relating to Pro Rata Charters

212.20 Applicability of subpart.

Requirements Relating to Foreign Air Carriers

212.21 Charter flight limitations.
212.22 Unused space.
212.23 Terms of service.
212.24 Substitute transportation in emergencies.
212.25 Payments, gratuities and donations.
212.26 Solicitation and formation of charter groups.
212.27 Pretrip notification and charter contract.
212.28 Agent's commission.
212.29 Prohibition on performing charters for certain types of organizations.
212.30 Prohibition on performing charters involving certain activities of travel agents.
212.31 Statement of supporting information.

Requirements Relating to Travel Agents

212.40 Prohibition against double compensation.
212.41 Statement of supporting information.

Requirements Relating to Chartering Organization

212.50 Solicitation of charter participants.
212.51 Passengers on charter flights.
212.52 Participation of immediate families on charter flights.
212.53 Charter costs.
212.54 Statements of charges.
212.55 Passenger lists.
212.56 Seat limitations.
212.57 Application for a charter.
212.58 Statement of supporting information.

Subpart B—Provisions Relating to Single Entity Charters

212.60 Applicability of subpart.
212.61 Terms of service.
212.62 Commissions paid to travel agents.

Subpart C—Provisions Relating to Mixed Charters

212.70 Applicable rules.

24. Amend § 212.1 by (a) revising the definitions of "charter trip" and "off-route trip"; (b) adding new definitions of "bona fide members," "charter flight," "charter group," "charter organization," "immediate family," "mixed charter," "on-route charter trip," "pro rata charter," "single entity charter," "solicitation of the general public," "study group," and "travel agent"; (c) deleting definition (b); and (d) deleting the alphabetical designations of definitions (a) and (c). As amended § 212.1 will read as follows:

§ 212.1 Definitions.

For the purposes of this part:

"Bona fide members" means those members of a charter organization who (a) have not joined the organization to participate in the charter as the result of solicitation directed to the general public; (b) are members at the time the organization first gives notice to its members of firm charter plans or at the time the charter contract is signed, whichever is earlier, and (c) are members for a minimum of 6 months prior to the starting flight date. Requirements of paragraphs (b) and (c) of this section are not applicable to charters composed of:

(1) Students and educational staff of a single school, and immediate families thereof;

(2) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof; or

(3) Participants in a study group.

"Charter flight" means air transportation performed pursuant to § 212.21 of this part.

"Charter group" means that body of individuals who actually participate in the charter flight.

"Charter organization" means that organization, group, or other entity from whose members (and their immediate families) a charter group is derived.

"Charter trip" means air transportation performed pursuant to § 212.21 of this part.

"Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely the spouse, dependent children, and parents of such member.

"Mixed charter" means a charter, the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

"Off-route charter trip" means any charter trip which is not an "on-route charter trip."

"On-route charter trip" means a charter trip in foreign air transportation performed by a foreign air carrier between points between which it holds authority under a foreign air carrier permit to engage in foreign air transportation on an individually ticketed or individually waybilled basis: *Provided*, That for the purposes of this part a charter trip between a point in the United States named in the foreign air carrier permit of the carrier performing such charter trip and a point outside the United States which is not so named if such charter trip is operated via, and lands at, the homeland terminal point named in the foreign air carrier permit of such foreign air carrier, shall also be considered an "on-route charter trip."

"Pro rata charter" means a charter, the cost of which is divided among the passengers transported.

"Single entity charter" means a charter, the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

"Solicitation of the general public" means:

(a) A solicitation going beyond the bona fide members of an organization (and their immediate families). This includes air transportation services offered by a foreign air carrier under circumstances in which the services are advertised in mass media, whether or not the advertisement is addressed to members of a specific organization, and regardless of who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations, and college newspapers shall not be considered advertising in mass media to the extent that (1) The advertising is placed in a medium of communication circulated mainly to members of an organization that would be eligible to obtain charter service, and

(2) The advertising states that the charter is open only to members of the organization referred to in subdivision (1) of this subparagraph, or only to members of a subgroup thereof. In this context, a subgroup shall be any group with membership drawn primarily from members of the organization referred to in subdivision (1) of this subparagraph: *Provided*, That this paragraph shall not be construed as prohibiting air carrier advertising which offers charter services to bona fide organizations, without reference to a particular organization or flight.

(b) The solicitation, without limitation, of the members of an organization

so constituted as to ease of admission to membership, and nature of membership, as to be in substance more in the nature of a segment of the public than a private entity.

"Study group" means a charter group comprised of bona fide participants in a formal academic study course abroad and in which (1) the charterer is an educational institution or (2) such study course is for a period of at least 4 weeks' duration at an educational institution abroad. As used in this paragraph, the term "educational institution" means a bona fide school which (i) is empowered to grant college degrees or secondary school diplomas by the government of one of the 50 States of the United States, the District of Columbia, a U.S. territory or possession or a foreign country and (ii) is operated as a school on a year-round basis. An aircraft may carry a maximum of three study groups: *Provided*, That if more than one group is carried each of the groups shall consist of 40 or more study group participants: *And provided, further*, That the entire aircraft is chartered to a single study group charterer.

"Travel agent" means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

25. Amend § 212.3 by revising the title and content to read as follows:

§ 212.3 Tariffs to be filed for charter trips.

No foreign air carrier shall perform any charter trips unless such foreign air carrier shall have on file with the Board a currently effective tariff showing all rates, fares, and charges for such charter trips, and showing the rules, regulations, practices, and services in connection with such transportation, including eligibility requirements for charter groups not inconsistent with those established in this part.

26. Add a new subparagraph (4) to § 212.7(a) to read as follows:

§ 212.7 Records and record retention.

(a) * * *

(4) Every Statement of Supporting Information and proof of the commission paid to any travel agent by the carrier for each pro rata charter trip.

* * * * *

27. Add a new § 212.8 to read as follows:

§ 212.8 Waiver.

A waiver of any of the provisions of this part may be granted by the Board upon the submission by a foreign air carrier of a written request therefor not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

28. Adopt new Subparts A, B, and C to read as follows:

Subpart A—Provisions Relating to Pro Rata Charters

§ 212.20 Applicability of subpart.

This subpart sets forth the special rules applicable to pro rata charters, both on-route and off-route.

REQUIREMENTS RELATING TO FOREIGN AIR CARRIERS

§ 212.21 Charter flight limitations.

(a) Charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air carrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually ticketed or individually waybilled basis where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage or for the movement of property, on a time, mileage or trip basis—

(1) By a person for his own use;

(2) By a person (no part of whose business is the formation of groups for transportation or solicitation or sale of transportation services) for the transportation of a group of persons as agent or representative of such group;

(3) By an international air freight forwarder holding a currently effective operating authorization issued under Part 297 of this subchapter for the carriage of property in foreign air transportation, by a person authorized by the Board to transport by air used household goods of personnel of the Department of Defense or by a foreign indirect air carrier, whether or not the property to be carried is the result of a previous consolidation;

(4) By a direct air carrier, direct foreign air carrier, or surface carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic.

(b) Within the meaning of this part, a charter trip shall not be deemed to include transportation services (1) offered by a foreign air carrier to individual members of the general public, (2) performed by a foreign air carrier under an arrangement with a person (other than an arrangement with a person and under the conditions described in paragraphs (a) (3) and (4) of this section) who provides or offers to provide transportation to the general public, or (3) engaged by persons paying for such services an amount aggregating in excess of the transporting carrier's duly published charter rate or fare: *Provided*, That in the case of a charter trip in which the total charge is prorated among the members of a group, this provision shall not be deemed to preclude the reimbursement of the group representative for reasonable administrative expenses actually incurred in arranging the charter.

§ 212.22 Unused space.

A foreign air carrier may, with the written consent of the charterer(s), utilize any unused space for the transportation of (a) the carrier's own personnel and property and/or (b) the directors, officers, and employees of another foreign air carrier or an air carrier traveling pursuant to a pass interchange arrangement.

§ 212.23 Terms of service.

(a) The total charter price and other terms of service rendered pursuant to this part shall conform to those set forth in the applicable tariff on file with the Board and in force at the time of the respective charter flight and the contract must be for the entire capacity of one or more aircraft. Where a carrier's charter charge computed according to a mileage tariff includes a charge for ferry mileage, the carrier shall refund to the charterer any sum charged for ferry mileage which is not in fact flown in the performance of the charter: *Provided*, That the carrier shall not charge the charterer for ferry mileage flown in addition to that stated in the contract unless such mileage is flown for the convenience of and at the express direction of the charterer.

(b) The carrier shall require full payment of the total charter price or the posting of a satisfactory bond for full payment prior to the commencement of the air transportation.

(c) In the case of a round-trip passenger charter, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported one way in each direction. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in order to avoid the 5-percent, limitation aforesaid. In the case of a charter contract calling for two or more round trips, there shall be no intermingling of passengers and each planeload group shall move as a unit in both directions, except as provided in § 212.24.

§ 212.24 Substitute transportation in emergencies.

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in § 241.03 of this subchapter) under the following circumstances:

(1) the passenger was transported by the carrier on an outbound charter flight;

(2) the transportation is for return passage only;

(3) when the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond the passenger's control; and

(4) the charter group with which the passenger is to travel expresses no objection to his participation in the charter flight. For the purpose of this paragraph, "emergency circumstances beyond

the passenger's control" shall mean illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delay in ground transportation or connecting air transportation.

(b) In all cases where such substitute transportation is furnished the carrier shall file a report with the Board within 30 days after the substitute transportation is provided setting forth the circumstances of the carriage. Such report shall include the name of the passenger; the name of his chartering organization with whom he traveled in substitute transportation; the date he was originally scheduled to return and the date on which he actually returned; a description of the circumstances which made the substitute transportation necessary; and the evidence which the carrier obtained to substantiate the need for substitute transportation (e.g., a doctor's certificate).

§ 212.25 Payments, gratuities and donations.

(a) Neither a carrier nor a travel agent shall make any payments or extend gratuities of any kind, directly or indirectly, to any member of a chartering organization in relation either to air transportation or land tours or otherwise.

(b) Neither a carrier nor a travel agent shall make any donation to a chartering organization or an individual charter participant.

(c) Nothing in this section shall preclude a carrier from paying a commission (within the limits of §§ 212.28 and 212.62) to a member of a chartering organization if such member is its agent, or restrict a carrier or a travel agent from offering to each member of the charter group such advertising and good-will items as are customarily extended to individually ticketed passengers (e.g., canvas traveling bag or a money exchange computer).

§ 212.26 Solicitation and formation of charter groups.

(a) A carrier shall not engage, directly or indirectly, in any solicitation of individuals (through personal contact, advertising, or otherwise) as distinguished from the solicitation of an organization for a charter trip, except after a charter contract has been signed.

(b) A carrier shall not employ, directly or indirectly, any person for the purpose of organizing and assembling members of any organization, club, or other entity into a group to make the charter flight, except after a charter contract has been signed.

§ 212.27 Pretrip notification and charter contract.

(a) Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this Part 212. The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier such information as specified in § 212.55. The carrier shall also require that the charterer and any travel agent involved shall furnish it at least 30 days prior to departure of the first flight the statements of supporting information required in § 212.58 and § 212.41, respectively, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed.

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization, or other qualified person, authorizing the person who executes the contract to do so on behalf of the chartering organization.[21a] If the carrier executes a charter contract within 15 days of the flight date, the carrier shall require the person who executes the contract on behalf of the charterer to certify as to whether or not a contract for the flight has been canceled by another carrier because the chartering organization was found to be ineligible under the regulations. The carrier shall also notify the Board, within 5 days after the contract has been executed, that its execution took place within 15 days of flight date. Where the certification discloses, or the carrier has reason to believe, that a contract for the flight has been canceled by another carrier, the notification to the Board shall also state that the carrier has made an independent inquiry and has satisfied itself that such cancellation was not caused by the ineligibility of the chartering organization. If a charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 212.55) of the outbound charter shall be attached to the charter contract.

§ 212.28 Agent's commission.

The carrier shall not pay its agent a commission or any other benefits, directly or indirectly, in excess of 5 percent of the total charter price as set forth in the carrier's charter tariff on file with the Board, or more than the commission related to charter flights paid to an agent by a carrier certificated to render regular service on the same route, whichever is greater. The carrier shall not pay any commission whatsoever to an agent if the agent receives a commission from the charterer for the same service.

§ 212.29 Prohibition on performing charters for certain types of organizations.

A carrier shall not perform a charter or charters for an organization which it knows, or has reason to know, has any of the following characteristics:

(a) The organization grants automatic membership to persons by reason of their being members of affiliated organizations or by reason of agreement between organizations;

(b) The organization is a council, federation, congress or other association of organizations;

(c) The organization includes a separate class of members who pay higher or lower dues or do not have equal voting rights;

(d) The organization's officers, directors or trustees are not elected by the general membership in elections held at least once every 2 years;

(e) The organization obtains members through arrangements with persons or organizations in the travel business;

(f) The organization pays a consideration to another entity or its officers when members of such other entity participate in charters of the organization, irrespective of whether such members directly or indirectly pay purported dues to the chartering organization;

(g) The organization recieves a part of its income from chartering activities and related arrangements to support its other activities;

(h) The organization's principal activity is the provision of travel arrangements and assistance for its members and it advertises in mass media for members;

(i) The organization's principal activity is providing goods and services to its members at a profit.

§ 212.30 Prohibition on performing charters involving certain activities of travel agents.

A carrier shall not perform a pro rata charter or charters with respect to which it knows, or has reason to know, that a travel agent or agents have engaged in the following activities:

(a) Advertising for or assisting in arranging for membership in the chartering organization or circulating advertising materials for the chartering organization which also solicit membership in the organization;

(b) Advancing the deposit or making other payments to the carrier on behalf of the organization;

(c) Receiving payment from the charterer for services in connection with the charter or making payments to the organization or its officers;

(d) Receiving payment from charter participants, except in connection with land-tour arrangements;

(e) Collecting membership, registration or other fees in connection with the charter or transmitting or issuing membership cards for the charter flights;

(f) Advertising the charter flight in mass media or distributing brochures or circulars to the general public soliciting participation in the charter;

(g) Offering to sell a land tour or tours in connection with the charter to members of the chartering organization who have not committed themselves to participate in the charter;

(h) Participating in preparing passenger lists and certification on behalf of the charterer.

[21a] Not applicable where the charter is based on employment in one entity or student status at a college.

§ 212.31 Statement of supporting information.

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute, the statement of supporting information attached hereto and made a part hereof.[32] If a charter contract covers more than one charter flight, a statement shall be filed for each one-way or round-trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the charter contract was signed.

REQUIREMENTS RELATING TO TRAVEL AGENTS

§ 212.40 Prohibition against double compensation.

A travel agent may not receive a commission from both the direct foreign air carrier and the charterer for the same service.

§ 212.41 Statement of supporting information.

Travel agents shall execute, and furnish to foreign air carriers, section A of part II of the statement of supporting information attached hereto and made a part hereof, at such time as required by the carrier to afford it due time for review thereof.

REQUIREMENTS RELATING TO CHARTERING ORGANIZATION

§ 212.50 Solicitation of charter participants.

As the following terms are defined in § 212.1, members of the charter group may be solicited only from among the bona fide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. Charter participants solicited from organizations with a total membership of more than 20,000 shall be presumed to be solicited from the general public. This presumption shall not be applicable in the case of charters composed of (a) students and educational staff of a single school, and immediate families thereof, (b) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (c) participants in a study group. Rebuttal to this presumption may be offered for the Board's consideration by request for waiver. In the absence of waiver, an organization with a total membership of more than 20,000 shall not be eligible. Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the carrier as the charterer. A chapter or unit thereof shall not solicit a national or regional organization with which it is associated with respect to charter flights. A charterer shall not advertise, or solicit its members for any charter until a charter contract has been signed.

§ 212.51 Passengers on charter flights.

(a) Only bona fide members of the charterer, and their immediate families (except as provided in § 212.52) may participate as passengers on a charter flight, and the participants must be members of the specific organization or chapter which authorized the charter. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member.[33] If total membership in a chartering organization is 1,000 or more, the charterer shall inform the carrier where the central membership list is maintained. If the total membership is less than 1,000, a list showing the names and addresses of members in good standing shall be furnished the carrier within 30 days after the charter contract is signed or at the time the contract is signed, if it is signed within 6 months of flight date: *Provided, however,* That this requirement is not applicable to college campus or study group charters, nor to charters limited to employees of a single Government agency, industrial plant or mercantile company.

(b) Where the charterer is engaging in round-trip transportation, one-way passengers shall not participate in the charter flight except as provided in § 212.23(c). When more than one round trip is contracted for, intermingling between flights or reforming of planeload charter groups shall not be permitted, and each group must move as a unit in both directions, except as provided in § 212.24.

§ 212.52 Participation of immediate families on charter flights.

The immediate family of any bona fide member of a charter organization may participate in a charter flight: *Provided, however,* That this section shall not apply to study group charters as defined herein (§ 212.1).

§ 212.53 Charter costs.

(a) The costs of charter flights shall be prorated equally among all charter passengers and no charter passenger shall be allowed free transportation; except that (1) children under 12 years of age may be transported at a charge less than the equally prorated charge; and (2) children under 2 years of age may be transported free of charge. The chartering organization, in any announcement giving price per seat, shall state that the seat price is a pro rata share of total charter cost and is subject to increase or decrease depending on the number of participants. All announcements shall separately state the total cost of the entire trip, and shall separately state the cost of air transportation and accommodations, if any, and identify the carrier and the number of seats available and the type of aircraft to be used for the charter.

(b) The charterer shall not make charges to the charter participants which exceed the actual costs incurred in consummating the charter arrangements, nor include as a part of the assessment for the charter flight any charge for purposes of charitable donations. All charges related to the charter flight arrangements collected from the charter participants which exceed the actual costs thereof shall be refunded to the participants in the same ratio as the charges were collected.

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Total charges (excluding transportation and land tours) shall not exceed $2 per passenger on one-way charters and $4 per passenger for round-trip charters. Neither the organizers of the charter, nor any member of the chartering organization, may receive any gratuities or compensation, direct or indirect from the carrier, the travel agent, or any organization which provides any service to the chartering organization whether of an air transportation nature or otherwise in connection with the proposed charter. Nothing in this section shall preclude a member of a chartering organization who is the carrier's agent from receiving a commission from the carrier (within the limits of § 212.28), or prevent any member of the charter group from accepting such advertising and goodwill items as are customarily extended to individually ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

(d) Properly authenticated vouchers supporting the expenditures referred to in paragraph (c) of this section shall be available for inspection at the request of charter participants.

§ 212.54 Statements of charges.

Any announcements or statements by the charterer to prospective charter participants of the anticipated individual charge for the charter shall clearly identify the portion of the charges to be paid separately for air transportation, for the land tour, and for the administrative expenses of the charterer.

§ 212.55 Passenger lists.

(a) Prior to each one-way or round-trip flight a list shall be filed by the charterer with the foreign air carrier showing the names and addresses of the persons to be transported, including stand-bys, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way

[32] The statement of supporting information would be in the form set forth following the amendments to Part 208, supra.

[33] Where the charter is based on employment in one entity of student status at a college, records of the corporation, agency or college will suffice to meet the requirement.

passengers. The list shall be amended if passengers are added or dropped before flight.

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger list as follows:

(1) A bona fide member of the chartering organization at the time the organization first gave notice to its members of firm charter plans and who will have been a bona fide member of the chartering organization for at least 6 months prior to the starting flight date. Specify on the passenger list as "(1) member."

(2) The spouse, dependent child or parent of a bona fide member who lives in such member's household. Specify on the passenger list as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or a college campus, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger list as "(3) special" or "(3) member" (where participants are from a study or campus group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the outbound and inbound trips must be explained on the list.

(d) Attached to such list must be a certification, signed by a duly authorized representative of the charterer, reading:

The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization at the time the chartering organization first gave notice to its members of firm charter plans, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and educational staff of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a study group charter.

(Signature)

§ 212.56 Seat limitations.

A chartering organization shall be limited to 2,000 seats, whether on a one-way or round-trip basis, per calendar year. This limitation may be waived by the Board upon application therefor.

§ 212.57 Application for a charter.

A chartering organization shall make written application to the foreign air carrier, setting forth the number of seats desired, points to be included in the proposed flight or flights, dates of departure for each one-way or round-trip flight, and the number of seats contracted for with the same or other carriers during the calendar year.

§ 212.58 Statement of supporting information.

Charterers shall execute and file with the carrier section B of part II of the statement of supporting information attached hereto and made a part hereof rules applicable to single entity charters, to afford it due time for review thereof.

Subpart B—Provisions Relating to Single Entity Charters

§ 212.60 Applicability of subpart.

This subpart sets for the special rules applicable to single entity charters.

§ 212.61 Terms of service.

The provisions of § 212.23 shall apply to charters under this subpart except that paragraphs (b) and (c) of that section shall not be applicable.

§ 212.62 Commissions paid to travel agents.

No direct foreign air carrier shall pay a travel agent any commission in excess of 5 percent of the total charter price or more than the commission related to charter flights paid to an agent by a carrier certificated to fly the same route, whichever is greater.

Subpart C—Provisions Relating to Mixed Charters

§ 212.70 Applicable rules.

The rules set forth in subpart A of this part shall apply in the case of mixed charters.

Part 214. 29. Amend the Table of Contents by (a) revising the titles of §§ 214.12 and 214.35; (b) adding titles for new §§214.7, 214.8, 214.14a, 214.17, 214.18, 214.19, 214.22, 214.36, 214.37, and 214.38; (c) deleting Subpart D and § 214.60. As amended, the Table of Contents will read in pertinent part:

Sec.

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214.7 Charter flight limitations.
214.8 Unused space.

* * * * *

214.12 Pretrip notification and charter contract.
214.14a Substitute transportation in emergencies.

* * * * *

214.17 Prohibition on performing charters for certain types of organizations.
214.18 Prohibition on performing charters involving certain activities of travel agents.
214.19 Statement of supporting information.

* * * * *

214.22 Statement of supporting information.

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214.35 Passenger lists.
214.36 Seat limitations.
214.37 Application for a charter.
214.38 Statement of supporting information.

30. Amend § 214.2 to revise the definition of "charter flight" and "bona fide members" to read as follows:

§ 214.2 Definitions.

* * * * *

(b) "Charter flight" means air transportation performed pursuant to § 214.7 of this part.

* * * * *

(k) "Bona fide members" means those members of a charter organization who (1) have not joined the organization to participate in the charter as the result of solicitation directed to the general public; (2) are members at the time the organization first gives notice to its members of firm charter plans or at the time the charter contract is signed, whichever is earlier, and (3) are members for a minimum of 6 months prior to the starting flight date. Requirements of subparagraphs (2) and (3) of this paragraph herein are not applicable to charters composed of:

(i) Students and educational staff of a single school, and immediate families thereof;

(ii) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof; or

(iii) Participants in a study group.

31. Amend § 214.3 to read as follows:

§ 214.3 Waiver.

A waiver of any of the provisions of this part may be granted by the Board upon the submission by a foreign air carrier of a written request therefor not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

32. Add a new subparagraph (4) to § 214.6(a) to read as follows:

§ 214.6 Record retention.

(a) Every foreign air carrier operating pursuant to this part shall retain true copies of the following documents at its principal or general office and shall make them available in the United States upon request by an authorized representative of the Board or the Federal Aviation Administration for the following periods:

* * * * *

(4) Every statement of supporting information: 2 years.

* * * * *

33. Add new §§ 214.7 and 214.8 to read as follows:

§ 214.7 Charter flight limitations.

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

(a) The entire capacity of one or more aircraft has been engaged for the movement of persons and their personal baggage:

(1) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage or, in cases of emergency, of commercial passenger traffic: *Provided*, That emergency charters for commercial passenger traffic shall be reported in accordance with § 214.5);

(2) By a representative (or representatives acting jointly) of a group for the use of such group (provided no such representative is professionally engaged in the formation of groups for transportation or in the solicitation or sale of transportation services); or

(b) Less than the entire capacity of an aircraft has been engaged:

(1) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial passenger traffic: *Provided*, That emergency charters for commercial passenger traffic shall be reported in accordance with § 214.5);

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons and their personal baggage, as agent or representative of such group;

Provided, That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons: *Provided, further*, That with respect to paragraph (b) of this section, a maximum of three groups may be chartered on one aircraft and each group shall consist of 40 or more passengers.

§ 214.8 Unused space.

A direct foreign air carrier may, with the written consent of the charterer(s), utilize any unused space for the transportation of (1) the carrier's own personnel and property and/or (2) the directors, officers, and employees, of an air carrier or another foreign air carrier traveling pursuant to a pass interchange arrangement.

34. Amend § 214.12 by revising the title and content to read as follows:

§ 214.12 Pretrip notification and charter contract.

(a) Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this Part 214. The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier such information as specified in § 214.35. The carrier shall also require that the charterer and any travel agent involved shall furnish it at least 30 days prior to departure of the first flight the statements of supporting information required in §§ 214.38 and 214.22, respectively, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed.

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization, or other qualified person, authorizing the person who executes the contract to do so on behalf of the chartering organization.[=] If the carrier executes a charter contract within 15 days of the flight date, the carrier shall require the person who executes the contract on behalf of the charterer to certify as to whether or not a contract for the flight has been canceled by another carrier because the chartering organization was found to be ineligible under the regulations. The carrier shall also notify the Board, within 5 days after the contract has been executed, that its execution took place within 15 days of flight date. Where the certification discloses, or the carrier has reason to believe, that a contract for the flight has been canceled by another carrier, the notification to the Board shall also state that the carrier has made an independent inquiry and has satisfied itself that such cancellation was not caused by the ineligibility of the chartering organization. If a charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 214.35) of the outbound charter shall be attached to the charter contract.

35. Amend paragraph (c) of § 214.14 to read as follows:

§ 214.14 Terms of service.

* * * * *

(c) In the case of a round-trip passenger charter, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported one way in each direction. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in order to avoid the 5 percent limitation aforesaid. In the case of a charter contract calling for two or more round trips, there shall be no intermingling of passengers and each planeload or less than planeload group shall move as a unit in both directions except as provided in § 214.14a.

§ 214.14a Substitute transportation in emergencies.

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in § 241.03 of this subchapter) under the following circumstances:

(1) The passenger was transported by the carrier on an outbound charter flight;

(2) The transportation is for return passage only;

(3) When the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond the passenger's control; and

(4) The charter group with which the passenger is to travel expresses no objection to his participation in the charter flight.

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall mean illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

(b) In all cases where such substitute transportation is furnished, the carrier shall file a report with the Board within 30 days after the substitute transportation is provided setting forth the circumstances of the carriage. Such report shall include the name of the passenger; the name of his chartering organization; the name of the chartering organization with whom he traveled in substitute transportation; the date he was originally scheduled to return and the date on which he actually returned; a description of the circumstances which made the substitute transportation necessary; and the evidence which the carrier obtained to substantiate the need for substitute transportation (e.g., a doctor's certificate).

36. Add new §§ 214.17, 214.18 and 214.19 to read as follows:

§ 214.17 Prohibition on performing charters for certain types of organizations.

A carrier shall not perform a charter or charters for an organization which it knows, or has reason to know, has any of the following characteristics:

(a) The organization grants automatic membership to persons by reason of their being members of affiliated organizations or by reason of agreement between organizations;

(b) The organization is a council, federation, congress or other association of organizations;

(c) The organization includes a separate class of members who pay higher or lower dues or do not have equal voting rights;

(d) The organization's officers, directors or trustees are not elected by the general membership in elections held at least once every 2 years;

(e) The organization obtains members through arrangements with persons or organizations in the travel business;

(f) The organization pays a consideration to another entity or its officers when members of such other entity participate

[=] Not applicable where the charter is based on employment in one entity or student status at a college.

in charters of the organization, irrespective of whether such members directly or indirectly pay purported dues to the chartering organization;

(g) The organization receives a part of its income from chartering activities and related arrangements to support its other activities;

(h) The organization's principal activity is the provision of travel arrangements and assistance for its members and it advertises in mass media for members;

(i) The organization's principal activity is providing goods and services to its members at a profit.

§ 214.18 Prohibition on performing charters involving certain activities of travel agents.

A carrier shall not perform a pro rata charter or charters with respect to which it knows, or has reason to know, that a travel agent or agents have engaged in the following activities:

(a) Advertising for or assisting in arranging for membership in the chartering organization or circulating advertising materials for the chartering organization which also solicit membership in the organization;

(b) Advancing the deposit or making other payments to the carrier on behalf of the organization;

(c) Receiving payment from the charterer for services in connection with the charter or making payments to the organization or its officers;

(d) Receiving payment from charter participants, except in connection with land-tour arrangements;

(e) Collecting membership, registration or other fees in connection with the charter or transmitting or issuing membership cards for the charter flights;

(f) Advertising the charter flight in mass media or distributing brochures or circulars to the general public soliciting participation in the charter;

(g) Offering to sell a land tour or tours in connection with the charter to members of the chartering organization who have not committed themselves to participate in the charter;

(h) Participating in preparing passenger lists and certification on behalf of the charterer.

§ 214.19 Statement of supporting information.

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute, the statement of supporting information attached hereto and made a part hereof.[35a] If a charter contract covers more than one charter flight, a statement shall be filed for each one-way or round-trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the charter contract was signed.

37. Add new § 214.22 to read as follows:

[35a] The statement of supporting information would be in the form set forth following the amendments to Part 208, supra.

§ 214.22 Statement of supporting information.

Travel agents shall execute, and furnish to foreign air carriers, section A of part II of the statement of supporting information attached hereto and made a part hereof, at such time as required by the carrier to afford it due time for review thereof.

38. Amend § 214.30 to read as follows:

§ 214.30 Solicitation of charter participants.

As the following terms are defined in § 214.2, members of the charter group may be solicited only from among the bona fide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. Charter participants solicited from organizations with a total membership of more than 20,000 shall be presumed to be solicited from the general public. This presumption shall not be applicable in the case of charters composed of (a) students and educational staff of a single school, and immediate families thereof, (b) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (c) participants in a study group. Rebuttal to this presumption may be offered for the Board's consideration by request for waiver. In the absence of waiver, an organization with a total membership of more than 20,000 shall not be eligible. Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the carrier as the charterer. A chapter or unit thereof shall not solicit a national or regional organization with which it is associated with respect to charter flights. A charterer shall not advertise or solicit its members for any charter until a charter contract has been signed.

39. Amend § 214.31 to read as follows:

§ 214.31 Passengers on charter flights.

(a) Only bona fide members of the charterer, and their immediate families (except as provided in § 214.32) may participate as passengers on a charter flight, and the participants must be members of the specific organization or chapter which authorized the charter. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member.[35] If total membership in a chartering organization is 1,000 or more, the charterer shall inform the carrier where the central membership list is maintained. If the total membership is less than 1,000, a list showing the names and addresses of members in good standing shall be furnished the carrier within 30 days after the charter contract is signed or at the time the contract is signed, if it is signed within six months of flight date: *Provided, however,* That this requirement is not applicable to college campus or study group charters, nor to charters limited to employees of a single Government agency, industrial plant or mercantile company.

(b) Where the charterer is engaging in round-trip transportation, one-way passengers shall not participate in the charter flight except as provided in § 214.14(c). When more than one round trip is contracted for, intermingling between flights or re-forming of planeload or less than planeload charter groups shall not be permitted, and each group must move as a unit in both directions, except as provided in § 214.14a.

40. Amend paragraphs (a), (c) and (d) of § 214.33 to read as follows:

§ 214.33 Charter costs.

(a) The costs of charter flights shall be prorated equally among all charter passengers and no charter passenger shall be allowed free transportation; except that (1) children under 12 years of age may be transported at a charge less than the equally prorated charge; and (2) children under 2 years of age may be transported free of charge. The chartering organization, in any announcement giving price per seat, shall state that the seat price is a pro rata share of total charter cost and is subject to increase or decrease depending on the number of participants. All announcements shall separately state the total cost of the entire trip, and shall separately state the cost of air transportation and accommodations, if any, and identify the carrier and the number of seats available and the type of aircraft to be used for that charter.

* * * * *

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Total charges (excluding transportation and land tours) shall not exceed $2 per passenger on one-way charters and $4 per passenger for round-trip charters. Neither the organizers of the charter, nor any member of the chartering organization, may receive any gratuities or compensation, direct or indirect, from the carrier, the travel agent, or any organization which provides any service to the chartering organization whether of an air transportation nature or otherwise in connection with the proposed charter. Nothing in this section shall preclude a member of a chartering organization who is the carrier's agent from receiving a commission from the carrier (within the limits of § 214.15), or prevent any member of the charter group from accepting such advertising and goodwill items as are customarily extended to individually ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

[35] Where the charter is based on employment in one entity or student status at a college, records of the corporation, agency, or college will suffice to meet the requirements.

(d) Properly authenticated vouchers supporting the expenditures referred to in paragraph (c) of this section shall be available for inspection at the request of charter participants.

41. Amend the title and content of § 214.35 to read as follows:

§ 214.35 Passenger lists.

(a) Prior to each one-way or round-trip flight a list shall be filed by the charterer with the foreign air carrier showing the names and addresses of the persons to be transported, including standbys, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described) and the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger list as follows:

(1) A bona fide member of the chartering organization at the time the organization first gave notice to its members of firm charter plans and who will have been a bona fide member of the chartering organization for at least 6 months prior to the starting flight date. Specify on the passenger list as "(1) member."

(2) The spouse, dependent child or parent of a bona fide member who lives in such member's household. Specify on the passenger list as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or a college campus, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger list as "(3) special" or "(3) member" (where participants are from a study or campus group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the outbound and inbound trips must be explained on the list.

(d) Attached to such list must be a certification, signed by a duly authorized representative of the charterer, reading:

> The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization at the time the chartering organization first gave notice to its members of firm charter plans, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and educational staff of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a study group charter.
>
> ----------
> (Signature)

42. Add new §§ 214.36, 214.37, and 214.38 to read as follows:

§ 214.36 Seat limitations.

A chartering organization shall be limited to 2,000 seats, whether on a one-way or round-trip basis, per calendar year. This limitation may be waived by the Board upon application therefor.

§ 214.37 Application for a charter.

A chartering organization shall make written application to the foreign air carrier, setting forth the number of seats desired, points to be included in the proposed flight or flights, dates of departure for each one-way or round-trip flight, and the number of seats contracted for with the same or other carriers during the calendar year.

§ 214.38 Statement of supporting information.

Charterers shall execute and file with the foreign air carriers section B of part II of the statement of supporting information attached hereto and made a part hereof at such time as required by the carrier to afford it due time for review thereof.

43. Delete Subpart D and § 214.60.

Part 249. 44. *Delete Special Economic Regulation, ER–363,* in its entirety, immediately following the Table of Contents.

45. Revise the definition of "Supplemental air carrier" in § 249.2 to read as follows:

§ 249.2 Definitions.

* * * * *

"Supplemental air carrier" means an air carrier holding a certificate issued under section 401(d)(3) of the Act, or a special operating authorization issued under section 417 of the Act.

* * * * *

46. Amend § 249.8 by adding category 15 in the "Category of Records" table to read as follows:

§ 249.8 Period of preservation of records by supplemental air carriers.

* * * * *

Category of records	*Period to be retained*
* * *	* * *
15. The following documents pertaining to Part 208 of the Economic Regulations:	
(a) Every Statement of Supporting Information.	2 years.
(b) Proof of the commission paid to any travel agent by the carrier.	Do.
* * *	* * *

47. Amend § 249.12 by adding a new subparagraph (4) to paragraph (c) as follows:

§ 249.12 Period of preservation of records by foreign air carriers.

Each foreign air carrier, other than those foreign air carriers which are authorized to engage in charter transportation only,[1] shall retain its records in accordance with the provisions of this section.

* * * * *

(c) * * *

(4) Every statement of supporting information and proof of the commission paid to any travel agent by the carrier for each pro rata charter trip originating or terminating in the United States: 2 years.

48. Amend § 249.13(f) by revising category 302 in the "Category of Records" table to read as follows:

§ 249.13 Period of preservation of records by certificated route air carriers.

Category of records	*Period to be retained*
* * *	* * *
302 Reservations reports and records:	
(a) Cards and charts constituting original source of passengers' names, telephone numbers, etc.	2 months.
(b) Telegrams and radio messages relating to the clearance of space, passenger dispatching, etc.	1 month.
(c) Names and addresses of all passengers transported on each pro rata charter trip.	6 months.
(d) Every Statement of Supporting Information required by Part 207 of this subchapter and proof of the commission paid to any travel agent by the carrier for each pro rata charter trip.	2 years.
* * *	* * *

* * * * *

Part 295. 49. Delete Part 295 (14 CFR Part 295) from the economic regulations.

Part 399. 50. Amend the table of contents by deleting the titles of §§ 399.15 and 399.17. As amended, the table of contents will read in pertinent part:

Sec.

* * * * *

399.15 [Reserved]

* * * * *

399.17 [Reserved]

51. Delete the titles and text of §§ 399.15 and 399.17.

[F.R. Doc. 70–6009; Filed, May 14, 1970; 8:52 a.m.]

[1] The record-retention requirements governing foreign air carriers authorized to engage in charter transportation only are set forth in Part 214 of the Board's economic regulations.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 64]

[Docket No. 16979]

INTERDEPENDENCE OF COMPUTER AND COMMUNICATION SERVICE FACILITIES

Order Granting Extension of Time To File Comments

In the matter of regulatory and policy problems presented by the interdependence of computer and communication services and facilities.

On May 6, 1970, The Western Union Telegraph Co. (Western Union) filed a motion requesting an extension of time from May 13, 1970, until June 15, 1970, within which to file comments to the Commission's Tentative Decision in the Computer Inquiry, Docket No. 16979 and on the proposed rules for implementing the policy set forth therein.

In support of its request, Western Union indicates that it will be affected substantially by the tentative decision and proposed rules, and that its comments will require an in-depth analysis of the complex issues involved that cannot be completed until June 15, 1970.

It appears that Western Union has presented adequate reason to support its request. Accordingly, the motion of Western Union for extending the time within which to file its comments to June 15, 1970, is hereby granted.

This extension of time to file comments shall apply to all parties to the proceeding.

This action is taken pursuant to § 0.303(c) of the Commission's rules.

Adopted: May 7, 1970.

Released: May 11, 1970.

[SEAL] WILLIAM M. LESHER,
Acting Chief, Domestic Rates Division for Chief, Common Carrier Bureau.

[F.R. Doc. 70-5985; Filed, May 14, 1970; 8:50 a.m.]

Notices

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority No. 76; Amdt.]

DIRECTOR OF THE OFFICE OF PRIVATE OVERSEAS PROGRAMS

Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104 (26 F.R. 10608), as amended, from the Secretary of State, it is hereby ordered as follows:

SECTION 1. That Delegation of Authority No. 76 dated January 12, 1968 (33 F.R. 919) be amended by:

(a) deleting the title "Assistant Administrator for Private Resources", and substituting, in its place, the title "Director of the Office for Private Overseas Programs."

(b) deleting from section (2) thereof the words "Assistant Administrator, Office of Private Resources," and substituting therefor the words, "Director of the Office for Private Overseas Programs."

SEC. 2. This amendment to Delegation of Authority No. 76 shall be effective immediately.

Dated: April 3, 1970.

RUTHERFORD POATS,
Deputy Administrator.

[F.R. Doc. 70-5961; Filed, May 14, 1970; 8:48 a.m.]

[AFR Redelegation of Authority No. 111]

DEPUTY ASSISTANT ADMINISTRATOR FOR AFRICA ET AL.

Redelegation of Authority

Pursuant to the authority delegated to me as Assistant Administrator for Africa under Delegation of Authority No. 17, as amended, from the Administrator of the Agency for International Development, I hereby redelegate, for countries or areas within the responsibility of the Assistant Administrator for Africa, authority to the Deputy Assistant Administrator and to the Director and Deputy Director (Contracting) of the Office of Management, to sign or approve the following:

(1) Contracts and amendments to contracts financed in whole or in part by A.I.D., other than contracts financed under loan agreements or contracts exclusively for the supply of commodities; and grants, other than to foreign governments, or agencies of foreign governments;

(2) Letters of Commitment and Notices of Approval for Financing of Cooperating Country contracts, for contracts described in (1) above;

(3) Project Implementation Orders—Technical Services (PIO/T); and

(4) Amendments or modifications (pursuant to Executive Order 11223) involving less than $25,000 of A.I.D.-financed contracts entered into with nonprofit institutions under which no fee is charged or paid, where the amendment or modification is requested by the contractor and does not involve a consideration for the United States: *Provided*, That all such amendments or modifications are requested prior to final payment under the contract.

The authority herein delegated to the officers named above may not be further redelegated by such officers, but may be exercised by duly authorized persons who are performing the functions of such officers in an acting capacity.

The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within the Agency for International Development.

This Redelegation of Authority supersedes the Redelegation of Authority from the Acting Assistant Administrator for Africa to the Chief, Contracts Staff, dated October 29, 1969.

This Redelegation of Authority shall be effective immediately.

Dated: February 13, 1970.

PHILIP BIRNBAUM,
Acting Assistant Administrator for Africa.

[F.R. Doc. 70-5962; Filed, May 14, 1970; 8:48 a.m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

NORRIS JOHN HYDE

Notice of Granting of Relief

Notice is hereby given that Norris John Hyde, Rural Delivery No. 1, Clayton, N.Y., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on October 19, 1935, and February 12, 1941, in the Supreme Court, Jefferson County, N.Y., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Norris John Hyde because of such convictions to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under Chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such convictions it would be unlawful for Norris John Hyde to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Norris John Hyde's application and:

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

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

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

Signed at Washington, D.C., this 6th day of May, 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-5947; Filed, May 14, 1970; 8:47 a.m.]

EDWARD JABEN

Notice of Granting of Relief

Notice is hereby given that Edward Jaben, 6913 Sheridan Avenue, Des Moines, Iowa, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on May 28, 1964, in the U.S. District Court for the Western District of Missouri, of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Edward Jaben because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such

convictions, it would be unlawful for Mr. Jaben to receive, possess, or transport in commerce, any firearm.

Notice is hereby given that I have considered Edward Jaben's application and:

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

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

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

Signed at Washington, D.C., this 5th day of May 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-5948; Filed, May 14, 1970; 8:47 a.m.]

EUGENE OSRO BENEDICT

Notice of Granting of Relief

Notice is hereby given that Eugene Osro Benedict, Tacoma, Wash., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 20, 1939, by the U.S. District Court for the Western District of Washington (Southern Division), of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Eugene Osro Benedict because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for Eugene Osro Benedict to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Eugene Osro Benedict's application and:

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

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

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

Signed at Washington, D.C., this 5th day of May 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-5949; Filed, May 14, 1970; 8:47 a.m.]

FRANCIS S. DOBRISKY

Notice of Granting of Relief

Notice is hereby given that Francis S. Dobrisky, R.F.D. No. 2, Hampstead Road, Derry, N.H., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on September 22, 1967, in the District Court of Central Middlesex, Concord, Mass., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Francis S. Dobrisky because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for Mr. Dobrisky to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Francis S. Dobrisky's application and:

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

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

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

Signed at Washington, D.C., this 6th day of May 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-5950; Filed, May 14, 1970; 8:47 a.m.]

JAMES EDWARD EDICK

Notice of Granting of Relief

Notice is hereby given that Mr. James Edward Edick, 1 Hamilton Avenue, North Syracuse, N.Y. 13212, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 10, 1944, in the County Court of Onondaga, N.Y., of a crime punishable by imprisonement for a term exceeding 1 year. Unless relief is granted, it will be unlawful for James Edward Edick because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for James Edward Edick to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered James Edward Edick's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that James Edward Edick be, and he hereby is, granted relief from any and all disabilities imposed

by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 5th day of May 1970.

[SEAL] WILLIAM H. SMITH,
Commissioner of Internal Revenue.

[F.R. Doc. 70-5951; Filed, May 14, 1970; 8:47 a.m.]

SWAN RUSSELL FIELDEN

Notice of Granting of Relief

Notice is hereby given that Swan Russell Fielden, Charleston, S.C., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 5, 1964, by the Mecklenburg County, N.C., Superior Court, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Fielden because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for Mr. Fielden to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Fielden's application and:

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

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

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

Signed at Washington, D.C., this 5th day of May 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-5952; Filed, May 14, 1970; 8:47 a.m.]

BRADFORD E. LAGOMARSINO

Notice of Granting of Relief

Notice is hereby given that Mr. Bradford E. Lagomarsino, 3871 Chilton Lane, San Bruno, Calif. 94066 has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 23, 1964, by the Superior Court of the State of California, in and for the County of San Mateo of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Bradford E. Lagomarsino because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a fiearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for Mr. Lagomarsino to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Bradford E. Lagomarsino's application and:

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

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

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

Signed at Washington, D.C., this 6th day of May 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-5953; Filed, May 14, 1970; 8:47 a.m.]

OSBORN PHILLIP NEWTON, JR.

Notice of Granting of Relief

Notice is hereby given that Mr. Osborn Phillip Newton, Jr., 4732 Sheridan, Detroit, Mich. 48214 has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 8, 1941, in the District Court for Wichita County, Tex., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Osborn P. Newton, Jr. because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for Osborn P. Newton, Jr. to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Osborn P. Newton, Jr.'s, application and:

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

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

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

Signed at Washington, D.C., this 6th day of May 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-5954; Filed, May 14, 1970; 8:47 a.m.]

DALE LEROY PETERSEN

Notice of Granting of Relief

Notice is hereby given that Dale Leroy Petersen, 501 Spruce Street, Atlantic, Iowa, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 5, 1958, in the Cass County District Court, Atlantic, Iowa, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Dale Leroy Petersen because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition,

and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for Dale Leroy Petersen to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Dale Leroy Petersen's application and:

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

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

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

Signed at Washington, D.C., this 6th day of May 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-5955; Filed, May 14, 1970; 8:47 a.m.]

ROY JAMES TABOADA

Notice of Granting of Relief

Notice is hereby given that Mr. Roy James Taboada, 3440 25th Street, Apartment No. 307, San Francisco, Calif. 94110, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on August 9, 1961, in the Superior Court of the State of California, in and for the County of San Mateo, Department No. 3, of a crime punishable by imprisonment for a term exceeding one year. Unless relief is granted, it will be unlawful for Roy James Taboada because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Roy James Taboada to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Roy James Taboada's application and:

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

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

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

Signed at Washington, D.C., this 6th day of May 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-5956; Filed, May 14, 1970; 8:47 a.m.]

JAMES E. DUPREE

Notice of Granting of Relief

Notice is hereby given that James E. DuPree, Hot Springs, S. Dak., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on or about June 23, 1945, by a General Court Martial convened at Norfolk, Va., and on or about March 11, 1949, by a General Court Martial convened at the U.S. Naval Station, New Orleans, La., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for James E. DuPree because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for James E. DuPree to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered James E. DuPree's application and:

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

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

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

Signed at Washington, D.C., this 6th day of May 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-5946; Filed, May 14, 1970; 8:47 a.m.]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

STATEMENT OF ORGANIZATION, FUNCTIONS, AND PROCEDURES

Miscellaneous Amendments

On December 13, 1969, a notice of organization, functions, and procedures of the Bureau of Narcotics and Dangerous Drugs was published in the FEDERAL REGISTER (34 F.R. 19663). In compliance with 5 U.S.C. 552, the previously published notice is hereby amended to accord recent organizational changes:

Section 2(b) is amended to read as follows:

(b) Regional office organization. There are 16 regional offices and one independent office of the Bureau of Narcotics and Dangerous Drugs. The following is a listing of these offices, their locations, and the States or areas covered by each:

Region 1—Regional office at Boston, Mass., covering Maine, Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont.

Region 2—Regional office at New York, N.Y., covering New York, Northern New Jersey, Canada.

Region 3—Regional office at Philadelphia, Pa., covering Delaware, Southern New Jersey, Pennsylvania.

Region 4—Regional office at Baltimore, Md., covering District of Columbia, Maryland, North Carolina, Virginia, West Virginia.

Region 5—Regional office at Miami, Fla., covering Florida, Georgia, South Carolina, and Puerto Rico.
Region 6—Regional office at Detroit, Mich., covering Kentucky, Michigan, Ohio.
Region 7—Regional office at Chicago, Ill., covering Illinois, Indiana, Wisconsin.
Region 8—Regional office at New Orleans, La., covering Alabama, Arkansas, Louisiana, Mississippi, Tennessee.
Region 10—Regional office at Kansas City, Mo., covering Iowa, Kansas, Missouri, Nebraska, Minnesota, North Dakota, South Dakota.
Region 11—Regional office at Dallas, Tex., covering Oklahoma, Texas.
Region 12—Regional office at Denver, Colo., covering Arizona, Colorado, New Mexico, Utah, Wyoming.
Region 13—Regional office at Seattle, Wash., covering Alaska, Idaho, Montana, Oregon, Washington.
Region 14—Regional office at Los Angeles, Calif., covering California, Hawaii, Nevada.
Region 15—Regional office at Mexico City, Mexico, covering Central and South America.
Region 16—Regional office at Bangkok, Thailand, covering the Far East.
Region 17—Regional office at Paris, France, covering Europe and Middle East.
Independent office at Saigon, South Vietnam.

Effective date. This notice shall be effective when published in the FEDERAL REGISTER.

Dated: May 11, 1970.

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

[F.R. Doc. 70-5912; Filed, May 14, 1970; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 640]

NEW MEXICO

Notice of Filing of Plat of Dependent Resurvey

APRIL 27, 1970.

1. A plat of dependent resurvey of the following described lands, accepted March 10, 1970, was officially filed in the Land Office, Santa Fe, New Mexico, at 10 a.m. on April 20, 1970:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 1 W.,
Sec. 28, lots 9 to 14, inclusive;
Sec. 33, lots 1 to 8, inclusive.

The area described aggregates 524.03 acres.

The resurvey filed represents the dependent resurvey of the Fourth Standard Parallel South through R. 1 W. (north boundary); a portion of the New Mexico Principal Meridian (east boundary); a portion of the south boundary and survey and dependent resurvey of a portion of the subdivisional lines in T. 21 S., R. 1 W., of the New Mexico Principal Meridian, New Mexico.

2. Since the described public lands are classified for multiple use management under the Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Parts 2410 and 2411, the lands will not be subject to disposition under the agricultural land laws (43 U.S.C. Parts 7 and 9; 24 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) by reason of the official filing of the plat.

MICHAEL T. SOLAN,
Land Office Manager.

[F.R. Doc. 70-5943; Filed, May 14, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

DIRECTORS ET AL.

Delegation of Authority To Sign Certificates and Sight Drafts

General. In order to provide for the execution of certain documents in connection with Commodity Credit Corporation transactions at Agricultural Stabilization and Conservation Service Commodity Offices, and the Agricultural Stabilization and Conservation Service Data Processing Center at Kansas City, Mo., delegations of authority are provided below, pursuant to authority vested in me by the bylaws of Commodity Credit Corporation.

The authorities herein delegated shall be exercised in conformity with the bylaws, regulations, and programs of Commodity Credit Corporation, and the policies adopted by the Board of Directors of the Corporation.

Delegations—1. *Sight drafts.* The Directors or Acting Directors of the Agricultural Stabilization and Conservation Service Commodity Offices at Kansas City, Mo., Minneapolis, Minn., and New Orleans, La., may sign Commodity Credit Corporation sight drafts issued in disbursement of capital funds of Commodity Credit Corporation. This authority may not be redelegated.

2. *Certificates of interest.* The Director or Acting Director of the Agricultural Stabilization and Conservation Service Data Processing Center at Kansas City, Mo., may sign Commodity Credit Corporation certificates of interest issued to commercial banks and other eligible financial institutions participating in the financing of a pool of price support loans. This authority may not be redelegated.

3. *Producer payment-in-kind certificates.* The Director or Acting Director of the Agricultural Stabilization and Conservation Service Commodity Office at Kansas City, Mo., and other employees of such office to whom the authority is redelegated in writing by the Director or Acting Director, may sign or countersign Commodity Credit Corporation payment-in-kind certificates issued as balance certificates pursuant to any Commodity Credit Corporation regulation providing for issuance of such certificates to producers. Redelegations shall remain in full force and effect until terminated by the Director or Acting Director or until the delegate is separated from his position in the office.

4. *Wheat marketing certificates.* The Director or Acting Director of the Agricultural Stabilization and Conservation Service Commodity Office at Kansas City, Mo., and the Director or Acting Director of the Agricultural Stabilization and Conservation Service Data Processing Center at Kansas City, Mo., may sign wheat marketing certificates issued pursuant to any regulation providing for issuance of such certificates by Commodity Credit Corporation. This authority may not be redelegated.

(Sec. 4, 62 Stat. 1070, as amended, 15 U.S.C. 714b)

Terminated: Ca–190 as amended by Supplements 1, 2, and 3 (29 F.R. 11854, as amended by 30 F.R. 286, 31 F.R. 718, and 33 F.R. 10292).

Effective Date: Date of publication.

Signed at Washington, D.C., on May 8, 1970.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 70-6002; Filed, May 14, 1970; 8:51 a.m.]

CONTROLLER ET AL.

Termination of Delegation of Authority

The delegation of authority to the Controller, Treasurer, and Assistant Treasurers of Commodity Credit Corporation to sign Commodity Credit Corporation Export Commodity Certificates (Form CCC–341) published at 30 F.R. 849 (CA–198) is hereby terminated.

(Sec. 4, 62 Stat. 1070, as amended, 15 U.S.C. 714b)

Effective date. Date of publication.

Signed at Washington, D.C., on May 7, 1970.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 70-6003; Filed, May 14, 1970; 8:51 a.m.]

DIRECTOR OF FISCAL DIVISION ET AL.

Delegation of Authority With Respect to Letters of Credit

The Agricultural Stabilization and Conservation Service Commodity Office officials listed below are authorized to consent to reduction or cancellation of letters of credit issued, confirmed or advised to or in favor of the Commodity Credit Corporation and to draw drafts under such letters of credit against issuing, confirming or advising banks:

Director or Chief, Fiscal Division, ASCS Commodity Office, 120 Marais Street, New Orleans, La. 70112.
Director or Chief, Fiscal Settlements Division, ASCS Commodity Office, 8930 Ward Parkway, Kansas City, Mo. 64114.
Director or Chief, Fiscal Division, ASCS Commodity Office, 6400 France Avenue South, Minneapolis, Minn. 55435.

Specimen signatures of officials presently occupying the above entitled positions and of those persons authorized to act in that capacity in their absence may

be obtained by addressing written request therefor to the Director of the office indicated.

This supersedes the delegation published July 27, 1956 at 21 F.R. 5659.

Done at Washington, D.C., this 30th day of March 1970.

ARTHUR C. HARMAN, Jr.,
Acting Controller,
Commodity Credit Corporation.

Recommended:

EVERETT H. F. FELBER,
Deputy Vice President,
Commodity Credit Corporation.

Approved: May 8, 1970.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70-5957; Filed, May 14, 1970; 8:47 a.m.]

Packers and Stockyards Administration

TADLOCK STOCKYARD ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.) have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
MISSISSIPPI	
Luther E. Tadlock Stockyard, Forest, Feb. 27, 1962.	Tadlock Stockyard, Apr. 22, 1970.
PENNSYLVANIA	
Leesport Market & Auction, Leesport, Nov. 18, 1959.	Leesport Market and Auction, Inc., Jan. 1, 1969.
TENNESSEE	
Sevier County Livestock Auction Company, Seymour, May 5, 1960.	Sevier County Livestock Auction Company, Inc., Apr. 7, 1970.
TEXAS	
Lubbock Livestock Auction Company, Inc., Lubbock, Nov. 14, 1938.	Lubbock Livestock Auction Company, Feb. 14, 1970.
Midland Livestock Market, Midland, July 23, 1969.	Midland Livestock Market, Inc., Mar. 5, 1970.

Done at Washington, D.C., this 11th day of May 1970.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 70-6005; Filed, May 14, 1970; 8:51 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

FLORIDA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00195-33-77040. Applicant: Florida State University, Department of Chemistry, Tallahassee, Fla. 32306. Article: Mass Spectrometer, Model MS-902 for field ionization and automated data reduction. Manufacturer: Associated Electrical Industries, United Kingdom.

Intended use of article: The article will be used for studies in the following areas:

1. Structural studies which include:
(a) Reaction products and intermediates;
(b) Correlation studies;
(c) Natural products.

These studies will be conducted using ultrahigh resolution data reduced electron impact, field emission and chemical ionization mass spectra and metastable ion scanning in any of three spectral modes.

2. Analysis of:
(a) Drug metabolites;
(b) Stable isotopic studies of biosynthesis;
(c) Stable isotope studies of organic and inorganic reactions;
(d) Membrane composition;
(e) Complex lipids;
(f) Complex mixtures;

Field emission and chemical ionization mass spectra will be used for routine analysis.

Comments: Comments were received from CEC/Analytical Division of Bell and Howell (CEC) which allege inter alia that "the applicant, Florida State University, has failed to establish a valid foundation for its belief that no instrument or apparatus of equivalent scientific value to the instrument or apparatus sought to be imported free of duty is being manufactured in the United States". (CEC comments dated Nov. 10, 1969.) The Nuclide Corp. (Nuclide) submitted relevant data on its Model 12-90-G(ESA) mass spectrometer, which are being treated as additional information for the record. (Nuclide letter dated May 28, 1969.)

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, could have been made available to the applicant institution without excessive delay at the time the foreign article was ordered.

Reasons: The foreign article is of the category that is customarily produced on order. Section 602.1(f)(2) of the above-cited regulations provide:

Produced on order. An instrument, apparatus, or accessory shall be considered to be produced on order if a domestic manufacturer lists it in a current catalog and is able and willing to produce the instrument, apparatus or accessory within the United States and have it available without unreasonable delay to the applicant. In determining whether a U.S. manufacturer is able and willing to produce such instrument, apparatus, or accessory and have it so available, the Administrator shall take into account the normal commercial practices applicable to the production and delivery of instruments, apparatus or accessories of the same general category.

The matter of availability without unreasonable delay is associated with the issue of excessive delivery time which is explained in section 602.1(g) of the regulations as follows:

Excessive delivery time. Duty-free entry of the article shall be considered justified without regard to whether there is being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value for the purposes described in response to Question 7, if the delay in obtaining such domestic instrument, apparatus, or accessory (as indicated in the difference between the delivery times quoted respectively by domestic manufacturer and foreign manufacturer) will seriously impair the accomplishment of the purposes. In determining whether the difference in delivery times is excessive, the Administrator shall take into account the relevancy of the applicant's program to other research programs with respect to timing, the applicant's need to have such instrument, apparatus, or accessory available at the scheduled time for the course(s) in which the article is intended to be used, and other relevant circumstances.

The foreign article has a guaranteed resolution of 80,000 at a 10 percent valley definition, using C_2Cl_4 Xe doublets as the test specimen. The CEC Model 21-110 has a guaranteed resolution of 40,000 at a 10 percent valley and the Nuclide Model 12-90-G(ESA) has a guaranteed resolution of 35,000, at a 10 percent valley definition for the same test specimen. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 6, 1970, that the applicant has clearly

established that maximum available resolution is necessary for the accomplishment of the applicant's purposes.

Therefore, the difference between the guaranteed resolution of the foreign article, and the guaranteed resolutions respectively of the CEC Model 21–110 and the Nuclide Model 12–90–G(ESA) is a pertinent characteristic. The foreign article had a quoted delivery time of 90 days. Nuclide alleges that its Model 12–90–G(ESA) could be modified to provide a resolution of 80,000 at a 10 percent valley definition. But Nuclide states that an appropriately modified instrument could not be delivered within 90 days, especially if a high resolution test is required. (Nuclide letter, supra Item 11.) CEC also claims that its Model 21–110 can be modified to provide a resolution of 80,000, but indicates that the minimum delivery time would be 6 months and could even be longer if extensive modifications are required. (CEC comments, supra Item 14.) CEC also alleges that delivery time is not at issue, because the applicant has not established a justification for duty-free entry on the basis that a delivery time in excess of 90 days would impair the applicant's research program.

We are advised by HEW, however, that the applicant's reply to Question 13c demonstrates that the difference in delivery time would seriously impair the accomplishment of the applicant's program.

Accordingly, we find that at the time the applicant placed the order for the foreign article, no domestic manufacturer was able to make available to the institution an instrument or apparatus of equivalent scientific value to the foreign article, no such purposes as this article is intended to be used, within the meaning of § 602.1(f)(2) of the above-cited regulations.

We also find that the difference between the 90-day delivery time quoted by the foreign manufacturer and the delivery times quoted by the domestic manufacturers to be excessive within the meaning of § 602.1(g).

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-5933; Filed, May 14, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 9366]

DEANOL ACETAMIDOBENZOATE; NIALAMIDE; PHENELZINE SULFATE; PIPRADROL HYDROCHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Niamid Tablets, containing 25 milligrams or 100 milligrams nialamide per tablet; marketed by Pfizer Laboratories, Division of Chas. Pfizer and Co., Inc., 235 East 42d Street, New York, N.Y. 10017 (NDA 11–932).

2. Nardil Tablets, containing phenelzine sulfate equivalent to 15 milligrams phenelzine base per tablet; marketed by Warner-Chilcott Laboratories, Division Warner-Lambert Pharmaceutical Co., 201 Tabor Road, Morris Plains, N.J. 07950 (NDA 11–909).

3. Deaner Tablets, containing deanol acetamidobenzoate equivalent to 25 milligrams or 100 milligrams deanol per tablet; marketed by Riker Laboratories, 19901 Nordhoff Street, Northridge, Calif. 91326 (NDA 11–417).

4. Meratran Tablets, containing 1.0 milligram or 2.5 milligrams pipradrol hydrochloride per tablet; marketed by the William S. Merrell Co., Division of Richardson-Merrell, Inc., Cincinnati, Ohio 45215 (NDA 9–366).

These drugs are regarded as new drugs. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* 1. The Food and Drug Administration has considered the reports of the Academy, as well as other available evidence, and concludes that for the following claims in the labeling of these drugs, there is a lack of substantial evidence of effectiveness:

a. Nialamide: increases appetite and decreases fatigability; produces a sense of well-being in the anxiety-ridden individual; in patients suffering from depression associated with inoperable tumors, it may improve mental outlook, reduce the impact of pain, decrease the amounts of narcotics or analgesics needed, and improve appetite and well being; and adjunctive therapy in chronic and debilitating diseases such as arthritis where depression is a complicating factor.

b. Phenelzine sulfate: for the depressive affect associated with other psychoses; and the depressive affect (moderate to severe) associated with chronic illness.

c. Pipradrol Hydrochloride: For fatigue of physiologic origin resulting from diminished functional capacity in later life; for convalescence following a debilitating illness to counteract depressive symptoms; and for patients whose activity is purposive but at a lower level than normal.

2. These drugs are regarded as possibly effective for their labeled indications other than the indications described in paragraph A.1. above.

B. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new-drug application for a drug described in paragraph A.1. above is requested to submit a supplement to his application to provide for revised labeling, as needed, which deletes those indications for which such drug has been classified as lacking substantial evidence of effectiveness. Such supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9 (d) and (e)), which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to do so may result in a proposal to withdraw approval of the new-drug application.

2. If any such preparation is on the market without an approved new-drug application, its labeling should be revised if it includes those claims for which substantial evidence of effectiveness is lacking as described in paragraph A.1. above. Failure to delete such indications and put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. Holders of previously approved new-drug applications for drugs described in this announcement and any person marketing these drugs without approval will be allowed six months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and submit in a supplemental or original new-drug application data to provide substantial evidence of effectiveness for those indications for which the drugs are regarded as possibly effective. The only material which will be considered acceptable for review must be well-organized and consist of adequate and well-controlled studies bearing on the efficacy of the product, and not previously submitted.

4. At the end of the six-month period, any such data will be evaluated to determine whether there is substantial evidence of the effectiveness of the drugs for such uses. After that evaluation, the conclusions concerning the drugs will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new-drug applications for these drugs pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)). Withdrawal of approval of the applications will cause any such drug on the market to be a new drug for which an approval is not in effect.

The above-named holders of the new-drug applications for these drugs have been mailed a copy of the NAS-NRC report. Any interested person may obtain a copy of these reports by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 9366 and be directed to the attention of the following appropriate office and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Requests for NAS-NRC reports: Press Relations Office (CE–200).

Supplements (identify with NDA number): Office of Marketed Drugs (BD–200), Bureau of Drugs.

Original new-drug application: Office of New Drugs (BD–100), Bureau of Drugs.
All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–5938; Filed, May 14, 1970; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED

MAY 7, 1970.

Pursuant to Docket No. HM–1, Rule-making Procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 F.R. 8277) 49 CFR 170, following is a list of new DOT Special Permits upon which Board action was completed during April 1970:

Special permit No.	Issued to—subject	Mode or modes of transportation
6197	Shippers upon specific registration with this Board, for the shipment of liquefied natural gas in an 11,000 gallon nominal water capacity vacuum insulated aluminum cargo tank with a steel outer jacket.	Highway.
6200	Stanley Door Operating Equipment for the shipment of a 20-cubic inch hydraulic accumulator complying with 49 CFR 173.306(e)(2), except that the pressure in the container must not exceed 450 psig at 70° F.	Water, cargo-only aircraft, highway, and rail.
6207	Shippers upon specific registration with this Board, for the shipment of picric acid wet with not less than 12% water by weight, in a DOT–15A wooden box having inside polyvinyl chloride double bags.	Water, highway, and rail.
6208	Shippers upon specific registration with this Board, for the shipment of large quantities of fissile radioactive materials in UKAEA Design No. 0003E/0580/0776 packaging.	Cargo-only aircraft, and highway.
6210	Albany Welding Supply Company, Incorporated, for the shipment of oxygen, nitrogen, nitrous oxide, or hydrogen in DOT–3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway, and rail.
6213	Combustion Engineering, Incorporated, for one escorted shipment of a large device containing solidified potassium.	Highway.
6214	Shippers upon specific registration with this Board, for the shipment of Type B quantities of radioactive materials, n.o.s., or special form, in the AECL Model F112, F113, or F114 packagings.	Highway.
6215	Shippers upon specific registration with this Board, for the shipment of anhydrous hydrogen chloride in a 4,400-gallon nominal water capacity insulated steel jacketed cargo tank.	Highway.
6216	Acetylene Oxygen Company for the shipment of oxygen or nitrogen in DOT–3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway, and rail.
6217	Shippers upon specific registration with this Board, for the shipment of large quantities of radioactive materials, special form, in the AECL Model F–143 or F–158 Transfer Case.	Water, and highway.
6218	Shippers upon specific registration with this Board, for the shipment of liquefied oxygen, argon, or nitrogen in a 3,000 gallon nominal water capacity vacuum insulated aluminum cargo tank with a steel outer jacket.	Highway.
6220	Shippers upon specific registration with this Board, for the shipment of not exceeding 16% sodium hypochlorite solutions in DOT–21P/2S, 2SL, 2T, or 2U specification composite packaging.	Highway.
6221	Shippers upon specific registration with this Board, for the shipment of aniline oil in a DOT–111A100W3 tank car tank.	Rail.
6222	Shippers upon specific registration with this Board, for the shipment of carbon monoxide charged to not over 1,500 p.s.i.g. at 70° F., in DOT–3A or 3AA cylinders having a minimum service of 2,400 p.s.i.g., and which may be manifolded.	Highway.
6223	Shippers upon specific registration with this Board, for the shipment of bromine in 105-gallon capacity lead-lined steel portable tanks of foreign manufacture.	Highway.
6224	North American Rockwell Corporation for one shipment of sodium incorporated in a device overpacked in a large wooden box.	Highway.
6225	Shippers upon specific registration with this Board, for the shipment of bromine in glass jugs packed within a DOT–33A polystyrene case, further overpacked in a special fiberboard box.	Highway.
6226	North American Rockwell Corporation for the shipment of trinitromethane solutions in non-DOT specification 24-gauge steel, polyethylene lined nonreusable drums of not over 16 gallons capacity.	Water, and highway.
6228	Shippers upon specific registration with this Board, for the shipment of acetylene in DOT–8 or 8AL cylinders which have been filled without disconnecting from a manifold.	Highway.

WILLIAM C. JENNINGS,
Chairman,
Hazardous Materials Regulations Board.

[F.R. Doc. 70–5999; Filed, May 14, 1970; 8:51 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21866; Order 70–5–40]

AMERICAN AIRLINES, INC. ET AL.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of May 1970.

By tariff revisions[1] marked to become effective May 2, 1970, Trans World Airlines, Inc. (TWA), proposes to establish surcharges for its B–747 aircraft and a peak season surcharge of 5 percent in markets of 1,000 miles or more, to be applicable from June 1 through September 30, inclusive.[2] United Air Lines, Inc. (United) and American Airlines, Inc. (American), have filed to match both of TWA's proposals, and Continental Air Lines, Inc. (Continental), proposes to match the peak season fares, all effective June 1, 1970. Braniff Airways, Inc. (Braniff), also effective June 1, 1970, proposes to establish a peak season surcharge of 5 percent in all markets, applicable from June 1 through September 30.[3]

The B–747 one-way surcharges proposed by TWA, United, and American are shown, together with their relationship to normal fares, in the following table:

	One-way surcharges		Relationship to normal fares	
	First-class	Coach	First-class	Coach
			Percent	
Chicago–Los Angeles	$7.00	$4.00	5.22	3.74
Chicago–New York	5.00	3.00	7.81	5.88
Chicago–San Francisco	7.00	4.00	5.22	3.74
Los Angeles–New York	10.00	5.00	5.62	3.52
New York–Oakland	10.00	5.00	5.62	3.52
New York–San Francisco	10.00	5.00	5.62	3.52

The proposed round-trip surcharges would be twice the one-way surcharge, and would apply without regard to whether the passenger was traveling at the full fare or on one of the discounted fares.

In support of the proposal, TWA asserts that this surcharge is warranted by the improved value of service offered by the B–747 in relation to other existing

[1] Revisions to Airline Tariff Publishers, Inc., agent, Tariffs C.A.B. No.'s 90, 98, and 101.

[2] These proposals were suspended by the Board, pending further consideration, by Order 70–5–3, dated May 1, 1970. The reasons given in this order for suspension of B–747 surcharges and peak summer fares apply equally to TWA's suspended proposals.

[3] Braniff also proposes various changes in major promotional fares against which a complaint has been filed and which will be disposed of by subsequent order.

aircraft types and by the initial high cost of providing this service; that the amount of the surcharge will not have an adverse effect upon traffic; and that the surcharge will not constitute a mandatory fare increase upon the public since conventional jet services will continue to be available on the same routes at present fare levels. In essence, TWA characterizes the surcharge as an optional choice for the passenger who elects the added comfort of the B–747 and chooses to pay the attendant additional cost of providing that comfort.

TWA anticipates that a relatively high percentage of passengers will want to utilize the B–747 during the introductory period because of its inherent appeal, and adds that the interior is more spacious and luxurious than the interior of existing jets. TWA asserts that the B–747 will have a distinct competitive advantage over conventional jets operating on the same routes, and that the absence of a premium charge inevitably will contribute to an excessive flow of traffic away from conventional jet aircraft, thereby adversely affecting the economics of operations with existing jets.

TWA alleges that operating costs of B–747 aircraft are now anticipated to be higher than initially estimated, and that information presently available indicates that unit costs will actually exceed those of the B–707. This is allegedly due to the fact that original design parameters are not being fully met, and that early unit cost projections were made on the basis of almost 500 seats per plane.

TWA also contends that additional costs directly attributable to the dimensional and technical characteristics of the B–747 have arisen, particularly in the area of ground support facilities. In addition, it is alleged that it will be difficult to avoid a depressant effect on load factors on any route where the B–747 is introduced, since its program calls for the substitution of one B–747 for two B–707 frequencies, which results in an increase of 37 percent in available seat miles. TWA contends that to cancel more than two B–707 flights would cut unduly into schedule frequency, and this factor therefore introduces another type of economic cost which must be considered.

American's justification raises substantially the same points set forth by TWA, with perhaps more emphasis on value of service considerations as opposed to cost considerations. United's justification is brief and asserts that it is filing to match TWA; that precedent for surcharging new aircraft types has been set; that the surcharge is warranted by the value of more comfortable accommodations and increased costs associated with the introduction of the new aircraft; and that passengers will continue to have lower fares available on present jets.

On the question of the proposed peak summer fares, TWA alleges that traffic peaking results in inefficient year-round utilization of equipment and facilities, which are geared to providing adequate service during times of relatively high demand, and that this is directly responsible for added costs; that seasonal peaking is becoming an increasingly serious problem for the domestic airline industry, primarily in long-haul markets; and that the proposed surcharge will insure that those persons who contribute to peak capacity requirements pay a more reasonable share of the costs of the expanded resources needed to accommodate that peak.

TWA contends also that the proposal is an experimental opportunity to determine whether passengers, particularly those on nonbusiness trips, are prepared to shift their travel in order to achieve economies; that to the extent such shift occurs, there will be a long-run benefit on cost levels since the need for peak capacity will be less severe; and that the peak surcharge concept is now new, since it has been used for years in international air transportation, in other modes of transportation, and in other fields having fixed capacity such as tele-communications and hotels.

American, similarly to TWA, alleges that the proposed peak fares reflect the fact that its level of expense is increased by virtue of the need to provide adequate capacity to handle peak season traffic, and are designed to distribute the burden of these expenses more equitably between peak and off-peak passengers. American reiterates the claims that traffic is subject to severe peaking, particularly in long-haul markets, and that price differentials based on seasonality are well established in international transportation markets and in other travel related industries.

United asserts that it is filing to match TWA, alleging that the 5 percent fare increase will tend to offset added costs associated with the peaking of traffic during the 4 summer months and may tend to smooth out the peak. Continental and Braniff make substantially the same argument, but differ in certain significant respects. Continental believes the proposed 1,000-mile cut-off may be too high, since it allegedly experiences as great or greater summer peaks in markets of the 800–1,000-mile range. Continental contends that its revenue dilution from discount fares nears the maximum at about 800 miles, and that there are only minor variances beyond that distance. Braniff, on the other hand, alleges that its seasonality pattern varies from market to market, but that the variation is not a function of length of haul.

All carriers allege that the two proposals are justified by the industry's continued need for additional revenue. TWA states that the fare increases of last October have helped to some extent, but that their net effect has been little more than to offset inflationary cost pressures already well advanced at that time, and that these inflationary pressures have continued since then. The impact of the proposals upon passenger revenues, estimated by the carriers to be in the area of 1 percent on the basis of 1970 traffic forecasts, is as follows:

	Revenue impact (in millions)		
	B–747 surcharge	Peak summer fares	Total
American	$2.0	$8.7	$10.7
Braniff		2.9	2.9
Continental		1.6	1.6
TWA	3.0	5.9	8.9
United	0.8	10.6	11.4

A complaint requesting investigation and suspension has been filed by the Department of Defense (DOD), against the higher peak fares of Braniff and United.[4] The complaint alleges that the proposed tariff revisions result in substantial increases, without any justification whatsoever; and that the increases cannot be justified.

Upon consideration of all relevant matters, the Board has determined that the proposed peak summer fares, and the proposed surcharges for B–747 aircraft may be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be suspended. These tariff proposals are already under investigation in the various phases of the Domestic Passenger Fare Investigation, Docket 21866.

The Board is not persuaded that the proposals, which present issues of both fare level and fare structure, should be permitted at this time, particularly since the Domestic Passenger Fare Investigation is well in process. The substantive issues raised here are entirely pertinent to that investigation, and can be resolved more adequately on the basis of a full evidentiary record than upon the relatively limited information the carriers have supplied which, in our view, falls short of justifying their proposals. Operating data reported so far this year indicate that traffic growth is soft, and it seems at least questionable whether higher fares will in fact result in an improved revenue position. To the contrary, higher fares may have a depressant effect on traffic and consequently on revenues, particularly in light of the two general fare increases to which the traveling public was subjected in 1969. The continuing decline in load factors seems clearly to have been a significant factor in the unsatisfactory level of 1969 profits, and we are not prepared at this time to permit proposals which could accelerate or perpetuate that undesirable trend.

It is argued that cost and value of service factors justify the B–747 surcharge and that, in any event, the traveling public would retain a choice of service and price. Certainly the B–747 represents a service improvement. However, this improvement, when compared with the introduction of standard jets, does not appear to be of the degree which the

[4] The complaint is also directed against Braniff's proposal to increase military reservation fares so as to reflect an 80-percent relationship to coach fares rather than the present 66⅔ percent. To the extent the complaint is directed to those increases, it will be disposed of by subsequent order.

latter effected over piston-powered aircraft. From the passengers' standpoint, the current improvements lie mostly in the more spacious and comfortable passenger cabins. There is little difference in the ride as such, and the increase in speed is nominal as compared with the more than two hours cut from transcontinental flight times when the jets were first introduced.

It is contended that B–747 costs are now expected to be higher than earlier estimated, and may even exceed those of the standard jets. We are not prepared to accept these assertions as a basis for a surcharge. Aside from introductory costs which normally accompany phase-in of a new aircraft type, many of which should properly be capitalized and written-off over an extended period, we believe these new aircraft promise to produce not only greater comfort but lower costs of service as well over the longer term. Added to this is the fact that passengers will have available a meaningful choice of service and price only so long as substantial standard jet service continues to be offered. However, as more and more B–747's come into service, it seems likely that a passenger's effective choice of service and price will be reduced.

With regard to the peak season fares, the summer peaking problem is generally conceded to result primarily from discretionary travel rather than normal fare travel. Nonetheless, the seasonal proposal here before us would have the effect of shifting a greater burden of this cost to the normal fare passenger.

Moreover, information and data before the Board do not indicate that the entire 4-month period, June through September, is a true peak-travel period. August is clearly a peak month in terms of traffic but September is not. While traffic in June and July does indicate a degree of peaking, it is well short of August in this respect. Of significance in terms of the need to provide capacity, is the fact that the load factors of the three transcontinental carriers did not exceed 60 percent in either June or July. In September, the three carriers' load factors were 50 percent or below.

To the extent peaking does occur, the relatively low load factors experienced even in relatively peak-traffic months tend to indicate that it is on a more selective basis; that is, in a limited number of markets, or on certain days of the week, or a combination of both. If peaking were a severe problem generally, in long-haul markets, we believe the average overall load factors would be noticeably higher than those actually experienced in 1969. Obviously, traffic characteristics vary from carrier to carrier, market to market, and area to area. Even with the limited number of carriers that have filed, considerable difference of view exists as to what fares should be surcharged. On the one hand, American, TWA, Continental and United assert that their peaking problem increases as market distance increases, although Continental does not believe the 1,000-mile mileage break is the most appropriate. On the other hand, Braniff asserts that its peaking problem has no relationship to length of haul. These differences tend to highlight the complexity of the issue and the desirability of a full exploration in the pending general investigation, since it seems clear that any seasonal fare differential which might prove appropriate would need to be developed on an industry basis.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof,

It is ordered, That:

1. Pending hearing and decision by the Board, the fares, charges, and provisions described in Appendix A hereto[5] are suspended and their use deferred to and including August 29, 1970, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

2. Except to the extent granted herein, the complaint in Docket 22164, insofar as it applies to peak season fares, is dismissed; and

3. A copy of this order will be filed with the aforesaid tariffs and be served on American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and the complainants in Docket 22146.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[F.R. Doc. 70–6006; Filed, May 14, 1970; 8:51 a.m.]

[Docket No. 22165; Order 70–5–44]

GRAND FORKS AIRMOTIVE, INC.

Order To Show Cause

Issued under delegated authority May 11, 1970.

A final service mail rate established by Order 69–4–128, April 28, 1969, for the transportation of mail by aircraft is currently in effect for Grand Forks Airmotive, Inc., an air taxi operator under 14 CFR Part 298. This service mail rate resulted from Notice of Intent 69–10 filed by the Postmaster General on March 7, 1969. On May 5, 1970, the Postmaster General filed a petition stating that weekend trips on Grand Forks Airmotive's route between Thief River Falls, Detroit Lakes, Minn., and AMF Twin Cities, Minneapolis, Minn., were no longer needed and that he had been authorized by the carrier to petition for a new rate of 63.4 cents per mile on the basis of five round trips per week in each direction.

The carrier and the Post Office Department have agreed that a rate of 63.4 cents per mile is a fair and reasonable rate for the serivces described in Notice of Intent 69–10 as amended herein.

The Board finds it is in the public interest to determine, adjust and establish the fair and reasonable rates of compensation to be paid by the Postmaster General for the transportation of mail by aircraft, between the aforesaid points. Upon consideration of the petitions and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

On and after May 5, 1970, the fair and reasonable final service mail rates per great circle aircraft mile to be paid in their entirety by the Postmaster General to Grand Forks Airmotive, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Thief River Falls, Detroit Lakes, Minn., and AMF Twin Cities, Minneapolis, Minn., shall be 63.4 cents per great circle aircraft mile on the basis of five flights per week in each direction.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's regulations 14 CFR Part 302, 14 CFR Part 298 and the authority duly delegated by the Board in its organization regulations 14 CFR 385.14(f),

It is ordered, That:

1. All interested persons and particularly Grand Forks Airmotive, Inc., and the Postmaster General are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rates of compensation to be paid to Grand Forks Airmotive, Inc.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified in the attached appendix; and

3. This order shall be served upon Grand Forks Airmotive, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

APPENDIX

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein

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[5] Filed as part of the original document.

[6] Member Adams Concurrence and Dissent filed as part of original document.

[1] This order to show cause is not a final action and is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[F.R. Doc. 70-6007; Filed, May 14, 1970; 8:51 a.m.]

[Docket No. 22034]

WRIGHT AIR LINES, INC., ET AL.

Notice of Hearing

In the matter of Wright Air Lines, Inc., Wal Corp., and Tag Airlines, Inc.

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding will be held on May 19, 1970, at 10 a.m., e.d.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Ross I. Newmann.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report served on May 1, 1970, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 11, 1970.

[SEAL] ROSS I. NEWMANN,
Hearing Examiner.

[F.R. Doc. 70-6008; Filed, May 14, 1970; 8:52 a.m.]

FARM CREDIT ADMINISTRATION

[FCA Order No. 735]

DEPUTY GOVERNOR AND DIRECTOR OF COOPERATIVE BANK SERVICE ET AL.

Authority and Order of Precedence

MAY 4, 1970.

1. The Deputy Governor and Director of Cooperative Bank Service shall, subject to the jurisdiction and control of the Governor of the Farm Credit Administration, execute and perform all functions, powers, authority, and duties relative to cooperative banks and to matters incidental thereto, and the administration of the provisions of law relative to banks for cooperatives.

2. In the event that the Deputy Governor and Director of Cooperative Bank Service, Farm Credit Administration, is absent or is not able to perform the duties of his office for any other reason, the officer who is the highest on the following list and who is available to act is hereby authorized to exercise and perform all functions, powers, authority, and duties pertaining to the office of Deputy Governor and Director of Cooperative Bank Service:

(1) Noel G. Stocker, Deputy Director, Cooperative Bank Service.

(2) Earl R. Kittredge, Loan and Operations Officer, Cooperative Bank Service.

(3) Samuel E. Davis, Loan and Operations Officer, Cooperative Bank Service.

(4) Carl T. Fredrickson, Loan and Operations Officer, Cooperative Bank Service.

3. This order shall be and become effective on the date above written and supersedes Farm Credit Administration Order No. 714 (32 F.R. 5592).

E. A. JAENKE,
Governor,
Farm Credit Administration.

[F.R. Doc. 70-5979; Filed, May 14, 1970; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18852; FCC 70-477]

HARVEST RADIO CORP.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of Harvest Radio Corp., Fergus Falls, Minn., requests: 1410 kc., 500 w. Day, for construction permit, File No. BP-17918.

1. The Commission has before it for consideration (i) the above application; (ii) a motion to dismiss the application, filed October 17, 1968, by Litchfield Broadcasting Corp., licensee of station KLFD, Litchfield, Minn.; (iii) an informal objection to the application, filed June 4, 1969, by Empire Broadcasting Stations, Inc., licensee of station KBRF, Fergus Falls, Minn.; and (iv) pleadings in opposition and reply thereto.

2. Since the motion to dismiss is in the nature of a petition to deny and was filed more than 6 months after the applicant's published cutoff date of April 11, 1968, it fails to meet the requirements of § 1.580(i) of the rules and is thus procedurally defective. Furthermore, since the proposed station would neither compete with KLFD[1] nor cause it prohibited overlap, the petitioner lacks standing. Nonetheless, we will treat the petition on the merits as an informal objection under § 1.587 of the rules.

3. KLFD alleges that the Harvest Radio application should be dismissed because the proposed service area (0.5 mv/m contour) would receive overlap (0.025 mv/m) from KLFD's existing operation in contravention of § 73.37(a) of the rules. In support of this contention, petitioner submitted field intensity measurements made along an azimuth of 318° on July 6, 1968. These measurements indicate that the effective conductivity over the path is substantially higher than indicated by Figure M-3, the basis upon which the application was accepted for filing. Specifically, the data show that KLFD's 0.025 mv/m contour would extend 107 miles and overlap Harvest Radio's proposed 0.5 mv/m contour by several miles.

4. In opposition, the applicant submitted measurements taken along the same radial in December of 1968. These measurements indicate that although the effective conductivity is somewhat higher than M-3, KLFD's 0.025 mv/m contour would extend only 91.5 miles and would fall short of the proposed 0.5 mv/m contour. The applicant also claims that KLFD's data were inadequate because an insufficient number of close-in points were measured and adequate proof regarding calibration of the field intensity meter used by the petitioner was not supplied.

5. On March 21, 1969, KLFD submitted additional measurements made in February in support of its July 1968 data. These measurements were made along the same azimuth and once again indicate that the Harvest Radio proposal would receive prohibited overlap. On the other hand, the applicant, on August 27, 1969, filed its second set of measurements showing no overlap.

6. Obviously, the question of whether or not this application stands in violation of § 73.37(a) compels a choice between two conflicting engineering studies. In previous instances when measurements were taken along identical radials in different seasons of the year and involved variations in conductivity due to climatic conditions, we concluded that an average of all the data should be used.[2] Not all cases, however, are subject to resolution in this fashion. We note in this instance that some of the measurements taken in the summertime by KLFD show a higher effective conductivity than those taken in the winter by the applicant when, under normal conditions in Minnesota, the ground conductivity could be expected to increase. We are also at a loss to determine why the measured fields from some of the data are in reasonable agreement over about half of the distance measured, while wide disparity exists with respect to the remaining half of the radial. Thus, we are confronted with an irreconcilable conflict upon which we cannot make findings short of hearing. Accordingly, an evidentiary hearing must be held to resolve the matter. See Mansfield Broadcasting Co., 8 RR 2d 155, 4 FCC 2d 154, at 156.

7. In its pleading the licensee of KBRF support KLFD's claim of prohibited overlap, but failed to submit any data of its own. Instead, KBRF directs its objection to other aspects of Harvest Radio's application. According to KBRF, the applicant is not financially qualified to construct and operate as proposed, has failed to meet the Commission's standards regarding program surveys, and has failed to file a copy of its corporate bylaws. These defects, it is alleged, render the application subject to dismissal as "patently defective" within the meaning of §§ 1.564 and 1.566 of the rules.

[1] Litchfield is over 100 miles from Fergus Falls and KLFD's service area is far removed from the proposed service area.

[2] Jeannette Broadcasting Co., 29 FCC 44, 19 RR 480; United Broadcasting Co., Inc., 1 FCC 2d 55, 5 RR 2d 684.

8. The applicant estimates that a total of $30,900 will be needed to construct and operate for 1 year without revenues. This figure consists of $5,400 for equipment (used), $500 for lease of transmitter site, and $25,000 first year operating costs. Harvest Radio proposes to meet these costs with new capital of $15,000 and loans from stockholders in the amount of $19,000. The source of the new capital, however, is not spelled out. The $19,000 in loans is contingent upon the stockholders being able to secure bank loans but the application does not contain commitment letters from any banks. In addition to these deficiencies, we note that the applicant's estimated first year operating cost is inordinately low. Thus, prior to proving that it is financially qualified, it will be necessary for Harvest Radio to establish the reasonableness of its operating cost estimates.

9. In its Public Notice on Broadcast Applicant's Ascertainment of Community Needs, FCC 68-847, released August 22, 1968, 13 RR 2d 1903, in City of Camden, et al., 18 FCC 2d 412, 16 RR 2d 555, and more recently in its Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, released December 19, 1969, the Commission stated that applicants were expected to provide full information as to their awareness of local community needs and interests. Having determined what those needs were, applicants were expected to evaluate the relative importance of the problems and take them into consideration when formulating the proposed station's programs. It appears from an examination of this application, however, that Harvest Radio's attempt to meet these standards has been cursory at best. The most serious defect seems to be the applicant's failure to distinguish program preferences from community problems. Accordingly, a Suburban [3] issue will be included.

10. On August 27, 1969, Harvest Radio submitted a copy of its corporate bylaws. Thus, any previous defect in the application in this respect has been corrected.

11. In view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

12. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether the existing 0.025 mv/m contour of station KLFD would overlap the proposed 0.5 mv/m contour of the applicant in contravention of § 73.37(a) of the Commission's rules.

(2) To determine the basis for the applicant's estimate of first-year operating costs and whether the estimate is reasonable.

(3) To determine whether the applicant is financially qualified.

(4) To determine the efforts made by Harvest Radio Corp. to ascertain the community needs and interests of the area tl be served and the means by which the applicant proposes to meet those needs and interests.

(5) To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

13. *It is further ordered*, That the motion to dismiss by Litchfield Broadcasting Corp. as a formal petition is dismissed, as an informal objection is granted to the extent indicated above and is denied in all other respects; that the informal objection filed by Empire Broadcasting Stations, Inc., is granted to the extent indicated above and is denied in all other respects.

14. *It is further ordered*, That Litchfield Broadcasting Corp. and Empire Broadcasting Stations, Inc., are made parties to the proceeding.

15. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

16. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: May 6, 1970.

Released: May 11, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-5983; Filed, May 14, 1970; 8:49 a.m.]

[3] Surburban Broadcasters, 30 FCC 1020, 20 RR 951 (1961).

[4] Commissioner Robert E. Lee absent.

[Docket No. 18294; FCC 70-468]

SPACE CONFERENCE OF INTERNATIONAL TELECOMMUNICATION UNION

Order for Oral Presentation

In the matter of an inquiry relating to preparation for a World Administrative Radio Conference of the International Telecommunication Union on matters pertaining to the radio astronomy and space services.

1. On March 25, 1970, the Commission released its sixth notice of inquiry and notice of oral presentation (FCC 70-308) in the above captioned proceeding (35 F.R. 5431). In that notice, the Commission invited all interested parties to participate in an oral presentation of views before the Commission en banc, to be held after comments and reply comments are filed in response to the sixth notice of inquiry. The Commission also stated that the specific date or dates for oral presentation and the time allotted for each participant would be determined by the amount of interest displayed in response to this proposal. The Commission has reviewed all of the notices of intention to participate in the oral presentation, and, in light of the number of persons who will participate and the issues to which they will address themselves, the Commission has decided upon the division of time and order of presentation as set forth herein.

2. As was noted in the sixth notice of inquiry, those parties presenting similar views on related issues are urged to coordinate their presentations and appoint joint spokesmen in order to make the most effective use of available time. For example, five separate parties have requested time to present views on the use of the 2500-2690 MHz for space-borne educational TV. Thus, any party may agree with others to pool their respective allotted times for combined presentation of their cases. Finally, any party may reserve a part of his allotted time for rebuttal purposes.

3. *Accordingly, it is ordered*, That oral presentation shall begin before the Commission, en banc, at 9 a.m., on May 19, 1970, at the Commission's offices in Washington, D.C., in accordance with the schedule set forth below:

Parties	Time (Minutes)
Joint Council on Educational Telecommunications [1]	10
National Association of Educational Broadcasters [1]	10
Alaska Educational Broadcasting Commission [1]	10
National Educational Association of the United States [1]	10
U.S. Office of Education, HEW [1]	10
Lister Hill National Center for Biomedical Comms., HEW	15
Association of Maximum Service Telecasters, Inc	30
CBS TV Network Affiliates Association	15
Aerospace and Flight Test Radio Coordinating Council	30
Aeronautical Radio, Inc	30
Communications Satellite Corp	30
American Telephone and Telegraph	30

[1] These parties will all express views on the use of the band 2500-2690 MHz for space-borne educational TV.

Adopted: May 6, 1970.

Released: May 11, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-5982; Filed, May 14, 1970; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

EPIROTIKI STEAMSHIP CO.

Notice of Issuance of Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Epirotiki Steamship Co., George Potamianos, S.A., 2 Bouboulinas Street, Piraeus, Greece.

Dated: May 11, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5986; Filed, May 14, 1970; 8:50 a.m.]

LION FERRY A/B AND BONNIERFORETAGEN A/B

Notice of Application for Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20 as amended (46 CFR Part 540):

Lion Ferry A/B and Bonnierforetagen A/B, Halmstad, Sweden.

Dated: May 11, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5987; Filed, May 14, 1970; 8:50 a.m.]

LION FERRY A/B AND BONNIERFORETAGEN A/B

Notice of Application for Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Lion Ferry A/B and Bonnierforetagen A/B, Halmstad, Sweden.

Dated: May 11, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5988; Filed, May 14, 1970; 8:50 a.m.]

[2] Commissioner Robert E. Lee absent; Commissioner Johnson concurring in the result.

FEDERAL POWER COMMISSION

[Docket No. CP70-264]

ARKANSAS LOUISIANA GAS CO.

Notice of Application

MAY 8, 1970.

Take notice that on April 30, 1970, Arkansas Louisiana Gas Co. (Applicant), Post Office Box 1734, Shreveport, La. 71102, filed in Docket No. CP70-264 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing direct sale and delivery of natural gas and the construction and operation of certain facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a tap and delivery facilities to effect a direct sale and delivery of gas to Gabbo Exploration Co., for industrial consumption at its steam injection plant in Bossier Parish, La.

The estimated 3-year peak day and annual natural gas requirements are 2,250 Mcf and 432,000 Mcf, respectively.

The total estimated cost of the proposed facilities is $4,400 which will be financed by cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). 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. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5991; Filed, May 14, 1970; 8:50 a.m.]

[Docket No. RP70-31]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Proposed Changes in Rates and Charges

MAY 8, 1970.

Take notice that on April 30, 1970, Great Lakes Gas Transmission Co. (Great Lakes) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1 and Original Volume No. 2, to become effective June 15, 1970. The proposed rate changes would increase charges for jurisdictional sales and transportation by about $7,452,000 based on volumes for the 12-month period ending December 31, 1969, as adjusted. The application notes, however, that the impact of the proposed increase will be limited to about $1,400,000 a year until the expiration on November 1, 1970, of the developmental provisions of the presently effective rate schedules.

Great Lakes states that the proposed rate increases are critically necessary to enable it ultimately to cover the interest costs on its presently outstanding debt and to permit it to commence negotiations for long-term debt financing. In the cost of service, as adjusted, submitted by Great Lakes in support of its proposed increase the company reflects a claimed 10 percent overall rate of return.

Great Lakes requests that the proposed tariff sheets be made effective on June 15, 1970, without suspension.

Copies of the filing have been served on Great Lakes' customers and interested state commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 28, 1970, 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 1.08 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 protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5992; Filed, May 14, 1970; 8:50 a.m.]

[Dockets Nos. CI61-1408, CP70-257]

OKLAHOMA NATURAL GAS GATHERING CORP.

Notice of Application and Petition To Amend

MAY 8, 1970.

Take notice that on April 29, 1970, Oklahoma Natural Gas Gathering Corp. (applicant), 624 South Boston Avenue, Tulsa, Okla. 74119, filed in Docket No. CP70-257 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continuation of sales of natural gas to Oklahoma Natural Gas Co. (Oklahoma Natural). Applicant also filed a petition to amend the order of the Commission in Docket No. CI61-1408 issued on March 30, 1962, to authorize an increase in maximum deliveries to Cities Service Gas Co. (Cities Service), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to continue sales to Oklahoma Natural at various existing points of delivery along applicant's transmission line in quantities not in excess of 5,000 Mcf per day for resale in interstate commerce. Such sales for resale have been determined by the Commission to be subject to its jurisdiction and the application requests the necessary authorization to continue.

Applicant further proposes to increase its maximum deliveries to Cities Service authorized in Docket No. CI61-1408 by 15,000 Mcf per day, from 40,000 to 55,000 Mcf per day. The increased deliveries will be made through existing facilities and the additional gas will be obtained from new production developed in the Ringwood Field, Okla.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). 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. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5993; Filed, May 14, 1970; 8:50 a.m.]

[Docket No. E-7536]

PACIFIC POWER & LIGHT CO.

Notice of Application

MAY 8, 1970.

Take notice that on May 5, 1970, Pacific Power & Light Co. (applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Oregon, Wyoming, Washington, California, Montana, and Idaho, with its principal business office at Portland, Oreg., filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of not to exceed 1,562,691 shares of its authorized but unissued common stock of the par value of $3.25 per share.

The additional common stock is proposed to be issued pursuant to an underwritten rights offering to the common stockholders of applicant and it is proposed that such holders will be issued rights to subscribe for the additional common stock in the ratio of one share of additional common stock for each 10 shares of applicant's common stock held of record on the rights offering record date, together with a supplementary subscription right in cases where the number of shares held of record is not evenly divisible by 10 or is less than 10. It is presently expected that the record date will be the close of business on June 25, 1970. The price at which shares of the additional common stock will be offered to stockholders for subscription will be determined by applicant's board of directors shortly before the commencement of the proposed subscription offer, such price to be fixed in relation to and at an appropriate discount from the then market value of applicant's presently issued and outstanding common stock.

In making the subscription offer, applicant proposes to mail to each common stockholder of record on the record date for the determination of stockholders entitled to participate in the offer, a transferable subscription warrant expressed in terms of rights, the number of rights to be evidenced by each such warrant to be equivalent to the number of shares of applicant's common stock held of record by the stockholder on such record date. The warrants will have a life of not less than 20 days.

Such of the shares of the additional cmomon stock as shall not be subscribed for pursuant to the subscription offer will be offered for sale to underwriters at a price per share equivalent to the price at which said shares are offered for subscription pursuant to the subscription offer and the underwriters' compensation for commitments to purchase unsubscribed shares will be fixed by competitive bidding.

The net proceeds (estimated at $27 million) from the issuance and sale of shares of additional common stock are to be applied to the payment of short-term promissory notes outstanding at the time of the sale of such shares (estimated at $40 million) and to finance applicant's construction program. The notes were or are to be issued under a credit agreement dated as of December 31, 1969, or as commercial paper or as a combination of the two. The issuance of the additional common stock is a part of applicant's program for retiring short-term borrowings and permanently financing a part of its construction expenditures for 1970, presently estimated at $121,345,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 25, 1970, 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. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5994; Filed, May 14, 1970; 8:50 a.m.]

[Dockets Nos. G-103, CP70-262]

UNITED GAS, INC.

Notice of Application and Petition To Amend

MAY 8, 1970.

Take notice that on April 13, 1970, United Gas, Inc. (successor in interest to Pennzoil United, Inc.) (Petitioner),

Post Office Box 2628, Houston, Tex. 77001, filed in Docket No. G–103 a petition to amend the order of the Commission issued on September 10, 1940, pursuant to section 3 of the Natural Gas Act to reflect Petitioner as successor in interest in its authorization to export natural gas, and filed in Docket No. CP70–262 an application for a permit pursuant to Executive Order No. 10485 authorizing the continued operation and maintenance of facilities at the International Boundary necessary for said exportation, all as more fully set forth in the application and petition to amend which are on file with the Commission and open to public inspection.

Pursuant to section 3 of the Natural Gas Act, Pennzoil United, Inc., was authorized by the Commission's order in Docket No. G–103, as amended, to continue the exportation of natural gas which its predecessors had commenced in 1923 for the sale of natural gas to Compania de Gas de Nuevo Laredo, S.A., for resale in the City of Nuevo Laredo, Mexico, to domestic and industrial consumers. By order dated September 23, 1969 (Holding Company Act Release No. 16481) the Securities and Exchange Commission approved a plan by Pennzoil United, Inc., for the succession of interest by Petitioner. Petitioner hereby requests the Commission to amend its authorization to reflect the succession of interest.

Pursuant to Executive Order No. 10485, dated September 3, 1953, applicant filed in Docket No. CP70–262 an application for a permit authorizing the continued operation and maintenance of facilities at the international boundary between the United States and Mexico for the exportation of natural gas. Prior permits have been issued to its predecessors for the operation of such facilities in Docket No. G–103 on July 9, 1940, and January 26, 1945, and in Docket No. CP68–268 on June 26, 1968.

Applicant proposes to continue to operate at the international boundary approximately 2,151 feet of 6-inch and 4-inch pipeline and two meter stations with miscellaneous accessory valves, fittings, and gauges.

Any person desiring to be heard or to make any protest with reference to said application and petition to amend should on or before June 1, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest 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. Any person wishing to become a party 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.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–5995; Filed, May 14, 1970; 8:50 a.m.]

[Docket No. RI70–1610]

CAMERON OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate

MAY 8, 1970.

On April 10, 1970,[1] A. A. Cameron doing business as Cameron Oil Co. (Cameron)[2] tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is designated as follows:

Description: Notice of change.[1]
Purchaser and producing area: Colorado Interstate Gas Co. (Mocane Area, Beaver County, Okla.) (Panhandle Area).
Rate schedule designation: Supplement No. 3 to Cameron's FPC Gas Rate Schedule No. 1.
Effective date: May 11, 1970.[3]
Amount of annual increase: $989.
Effective rate: 18.048 cents per Mcf.[4][5][6]
Proposed rate: 19.176 cents per Mcf.[5][7]
Pressure base: 14.65 p.s.i.a.

Cameron proposes a periodic rate increase from a rate of 16 cents to 17 cents per Mcf, plus upward B.t.u. adjustment, amounting to $989 annually. Since Cameron's proposed increased rate exceeds the applicable area increased rate ceiling of 11 cents per Mcf for the Panhandle Area as announced in the Commission's statement of general policy No. 61–1, as amended, it is suspended for 5 months from May 11, 1970, the expiration date of the statutory notice.

The proposed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 3 to Cameron's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 3 to Cameron's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon Supplement No. 3 to Cameron's FPC Gas Rate Schedule No. 1 is hereby suspended and the use thereof deferred until October 11, 1970, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before June 24, 1970.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–5996; Filed, May 14, 1970; 8:51 a.m.]

[1] Filing completed by letter dated Apr. 23, 1970, filed Apr. 27, 1970.

[2] Address is 1100 Kermac Building, Oklahoma City, Okla. 73102.

[3] The stated effective date is the first day after expiration of the statutory notice period.

[4] Effective subject to refund in Docket No. RI63–384.

[5] Includes base rate of 16 cents plus upward B.t.u. adjustment before increase and base rate of 17 cents plus upward B.t.u. adjustment after increase.

[6] Subject to upward and downward B.t.u. adjustment.

[7] Periodic rate increase.

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on February 10, 1970.[1]

The information reviewed at this meeting suggests that real economic activity, which leveled off in the fourth quarter of 1969, may be weakening further in early 1970. Prices and costs, however, are continuing to rise at a rapid pace. Long-term market interest rates recently have fluctuated under the competing influences of heavy demands for funds and shifts in investor attitudes regarding the outlook for monetary policy. Bank credit declined in January but the money supply increased substantially on average; both had risen slightly in the fourth quarter. Flows of time and savings funds at banks and nonbank thrift institutions have remained generally weak since year-end, and they apparently have been affected little thus far by the recent increases in maximum rates payable for such funds. The U.S. foreign trade balance improved somewhat in December, as imports fell off. The overall balance of payments has been in substantial deficit in recent weeks. In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to the orderly reduction of inflationary pressures, with a view to encouraging sustainable economic

[1] The Record of Policy Actions of the Committee for the meeting of Feb. 10, 1970, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

growth and attaining reasonable equilibrium in the country's balance of payments.

To implement this policy, while taking account of the current Treasury refunding, possible bank regulatory changes and the Committee's desire to see moderate growth in money and bank credit over the months ahead, System open market operations until the next meeting of the Committee shall be conducted with a view to moving gradually toward somewhat less firm conditions in the money market: *Provided, however,* That operations shall be modified promptly to resist any tendency for money and bank credit to deviate significantly from a moderate growth pattern.

By order of the Federal Open Market Committee, May 6, 1970.

ARTHUR L. BROIDA,
Deputy Secretary.

[F.R. Doc. 70-5935; Filed, May 14, 1970; 8:45 a.m.]

GENERAL SERVICES ADMINISTRATION

[ADM 2800.10 CHGE 1]

FEDERAL PROCUREMENT REGULATIONS

Interim Deviations

1. *Purpose.* This order cancels the subject order issued to provide interim deviations from certain provisions of the Federal Procurement Regulations (FPR).

2. *Cancellation.* ADM 2800.10 and this CHGE 1 are canceled effective May 15, 1970.

3. *Explanation of change.* FPR Amendment 71, effective May 15, 1970, promulgates FPR provisions which embody the substantive effect of ADM 2800.10. Accordingly, on the effective date of the new FPR provisions there will be no further need for the continuance of ADM 2800.10.

4. *Instructions.* Remove ADM 2800.10 from GSA order binders and destroy.

ROD KREGER,
Acting Administrator.

MAY 11, 1970.

[F.R. Doc. 70-6040; Filed, May 14, 1970; 8:52 a.m.]

[Federal Property Management Regs., Temporary Reg. F-68]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes delegations of authority to represent the Federal Government in proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires May 31, 1970.

4. *Revocation.* This revocation notifies agencies of those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

No.	Date	Subject
F-24	Sept. 24, 1968	Delegation of Authority to Secretary of Defense—Regulatory Proceeding.
F-33	Dec. 17, 1968	Do.
F-34	Dec. 24, 1968	Do.
F-35	Dec. 24, 1968	Do.
F-40	Jan. 31, 1969	Do.
F-41	Feb. 7, 1969	Do.
F-48	May 7, 1969	Do.
F-51	Aug. 22, 1969	Do.
F-65	Feb. 9, 1970	Do.

JOHN W. CHAPMAN, JR.,
Acting Administrator of General Services.

MAY 8, 1970.

[F.R. Doc. 70-5936; Filed, May 14, 1970; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2718]

CONTINENTAL ASSURANCE CO. SEPARATE ACCOUNT (B) AND CONTINENTAL ASSURANCE CO.

Notice of Application for Exemption

MAY 11, 1970.

Notice is hereby given that Continental Assurance Co. Separate Account (B) (the Separate Account) and Continental Assurance Co. (the Company), 310 South Michigan Avenue, Chicago, Ill. 60604, an Illinois life insurance company, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (the Act) for an order of exemption to the extent noted below from the provisions of section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a complete statement of the representations contained therein, which are summarized below.

The Company created the Separate Account on June 1, 1966, to fund group variable annuities sold to school districts and certain other organizations meeting the requirements of section 403(b) of the Internal Revenue Code. The Separate Account is registered under the Act as an open-end diversified management company. The variable annuities funded through the Separate Account are sold in most instances together with a fixed annuity. A flat 6 percent charge is made on each dollar contributed for a variable annuity for sales and administrative expenses, and generally the same charge is made for a fixed annuity.

The group contracts under which such annuities are sold provide that an annuitant may from time to time shift in whole or in part from a fixed annuity to a variable annuity, and the Separate Account and the Company do not desire to make a charge when such a shift is made. The annuitant has already generally been charged 6 percent on every dollar contributed and an additional charge of 6 percent on a shift from a fixed annuity to a variable annuity would result in a total charge of 12 percent. The company has only a negligible bookkeeping cost upon such a shift and cannot justify a material charge. The applicants assert that the policy of section 22(d) would not require an additional charge to be made at that time.

Section 22(d) of the Act provides, in substance, that no registered investment company shall sell any redeemable security except at a current public offering price described in the prospectus. The Separate Account and the Company therefore request an exemption from section 22(d) so that if funds have been received by the Company for a fixed annuity which is later converted to a variable annuity, any sales or administrative fees which have been made to the Company in connection with such fixed annuity shall be credited against the 6 percent charge on the variable annuity.

Section 6(c) 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 if and to the extent that such exemption is necessary or 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 hereby given that an interested person may, not later than May 29, 1970, 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 by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Separate Account and the Company 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 postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-5959; Filed, May 14, 1970; 8:48 a.m.]

[70-4820]

GENERAL PUBLIC UTILITIES CORP.

Notice of Post-Effective Amendment to Declaration Regarding Cash Capital Contributions to Subsidiary Companies

MAY 11, 1970.

Notice is hereby given that General Public Utilities Corportion (GPU), 80 Pine Street, New York, N.Y. 10005, a registered holding company, has filed a post-effective amendment to a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

By order dated January 9, 1970 (Holding Company Act Release No. 16579), this Commission permitted GPU to make cash capital contributions, from time to time up to June 30, 1970, to certain of its subsidiary companies. The proposed capital contributions were to be and will be utilized by the subsidiary companies for the purpose of financing their business as public-utility companies, including the construction of additional facilities and the increase of working capital. Such cash capital contributions will be credited by the recipients to their respective capital surplus accounts.

GPU now proposes that the time for making cash capital contributions be extended to December 31, 1970, and that the amounts to be contributed to the respective subsidiary companies be increased as follows:

	Currently authorized	Proposed to be authorized
Jersey Central Power & Light Co.	$20,000,000	$60,000,000
Metropolitan Edison Co.	60,000,000	85,000,000
New Jersey Power & Light Co.	4,000,000	15,000,000
Total	84,000,000	160,000,000

The filing states that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. GPU estimates that the fees and expenses as related to the post-effective amendment will be approximately $1,500.

Notice is further given that any interested person may, not later than May 28, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said amended declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended by said post-effective amendment or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. 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 (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-5960; Filed, May, 14, 1970; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 12, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41957—*Returned shipments of sand from points in official territory.* Filed by Traffic Executive Association-Eastern Railroads, agents (E.R. No. 2976), for interested rail carriers. Rates on sand, in carloads, as described in the application, from points in official territory, to points in southern territory.

Grounds for relief—Carrier competition.

FSA No. 41958—*Carbolic acid (phenol) to East St. Louis, Ill., and St. Louis, Mo.* Filed by Southwestern Freight Bureau, agent (No. B-163), for interested rail carriers. Rates on acid, carbolic (phenol), in tank carloads, as described in the application, from Bayport, Chocolate Bayou, East Baytown, and Houston, Tex., to East St. Louis, Ill., and St. Louis, Mo.

Grounds for relief—Water competition.

Tariff—Supplement 4 to Southwestern Freight Bureau, agent, tariff ICC 4899.

AGGREGATE-OF-INTERMEDIATES

FSA No. 41959—*Carbolic acid (phenol) to East St. Louis, Ill., and St. Louis, Mo.* Filed by Southwestern Freight Bureau, agent (No. B-164), for interested rail carriers. Rates on acid, carbolic (phenol), in tank carloads, as described in the application, from Bayport, Chocolate Bayou, East Baytown, and Houston, Tex., to East St. Louis, Ill., and St. Louis, Mo.

Grounds for relief—Maintenance of depressed rates without use of such rates as factors in constructing combination rates.

Tariff—Supplement 4 to Southwestern Freight Bureau, agent, tariff ICC 4899.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6015; Filed, May 14, 1970; 8:52 a.m.]

[Notice 76]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 12, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 62499 (Sub-No. 8 TA), filed May 6, 1970. Applicant: HAGERSTOWN MOTOR EXPRESS CO., INC., Middleburg Pike, Post Office Box 1946, Hagerstown, Md. 21740. Applicant's representative: Charles E. Creager, 816 Easley Street, Suite 523, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except commodities of unusual value; (1) between Hagerstown, Md., and Baltimore, Md.; (2) from Hagerstown, Md., to points in Maryland, Pennsylvania, Virginia, and West Virginia, within 40 miles of Hagerstown, Md.; (3) between points in Frederick County, Md.; (4) between Baltimore, Md., on the one hand, and, on the other, points in Frederick County, Md., for 180 days. NOTE: Applicant intends to tack with Sub-Nos. 3, 5, 6, and 7. Supporting shippers: Cambridge Rubber Co., Taneytown, Md. 21787; Rowan Controller Inc., Post Office Box 306, Bethel Rd., Westminster, Md.

21157; The Littlestown Hardware & Foundry Co., Inc., Littlestown, Pa. 17340; Lincoln Manufacturing Co., Inc., Westminster, Md. 21157; FMC Corp., Canning Machinery Division, Railroad Avenue 1, Westminster, Md. 21157; The Black & Decker Manufacturing Co., Towson, Md. 21204. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 2218, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 71459 (Sub-No. 19 TA), filed May 7, 1970. Applicant: HOPPER TRUCK LINES, 2800 West Bayshore Road, Palo Alto, Calif. 94303. Applicant's representative: Clifford J. Boddington (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, dangerous articles, household goods, commodities requiring special equipment, commodities injurious or contaminating to from Gila Bend, Ariz., to Ajo, Ariz., and return over the same route, serving all intermediate points, over Arizona Highway 85, for 180 days. NOTE: Applicant intends to tack with MC–71459 and Subs; and interline at Phoenix, Ariz. Supporting shippers: There are approximately nine statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 92806 (Sub-No. 30 TA), filed May 7, 1970. Applicant: MILES & SONS TRUCKING SERVICE, Post Office Box 859, Merced, Calif. 95340. Applicant's representative: Marshall G. Berol, 100 Bush Street, San Francisco, Calif., 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pumice aggregate*, in bulk, from Hesperia, Calif., to points along the Pear Blossom Canal Project in San Bernardino County, Calif., on shipments having a prior movement by rail, by common carrier, in interstate or foreign commerce, for 150 days. Supporting shipper: Granite Construction Co., Post Office Box 900, Watsonville, Calif. 95076. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif., 94102.

No. MC 110525 (Sub-No. 970 TA), filed May 7, 1970. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chlorobutadiene*, in bulk, in tank vehicles, from Laplace, La., to Montague, Mich., for 180 days. Supporting shipper: E. I. du Pont de Nemours & Co., Wilmington, Del. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 113271 (Sub-No. 33 TA), filed May 6, 1970. Applicant: CHEMICAL TRANSPORT, 1627 Third Street NW., Great Falls, Mont. 59401. Applicant's representative: John S. Rice (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Kellogg, Idaho, to Hoerner-Waldorf Paper Co., Schilling, Mont., for 180 days. Supporting shipper: Hoerner Waldorf Mill Division, Drawer D, Missoula, Mont. 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 116474 (Sub-No. 20 TA), filed May 6, 1970. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, Oreg. 97477. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wood products, prefabricated wood timbers, trusses and beams, and accessories used in the erection, construction, and completion of the foregoing when shipped therewith*, from Saginaw, Oreg., to points in California and Washington; under contract with and for the account of Bohemia Wood Systems, Laminating Division of Bohemia Lumber Co., Inc., for 180 days. Supporting shipper: Bohemia Lumber Co., Inc., 2280 Oakmont Way, Eugene, Oreg. 97401. Send protests to: District Supervisor A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 118989 (Sub-No. 44 TA), filed May 6, 1970. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, Wis. 53221. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty pails, cans or drums of sheet steel or plastic construction*, from Peotone, Ill., to Fort Thomas, Henderson, Owensboro, and Louisville, Ky., for 150 days. Supporting shipper: Bennett Industries Division Growth, International Industries Corp., Peotone, Ill. (Edwin T. Sinclair, Traffic Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 125697 (Sub-No. 1 TA), filed May 4, 1970. Applicant: LESTER HANSEN, Kranzburg, S. Dak. 57245. Applicant's representative: Irving A. Hinderaker, 318 Midland National Life Insurance Co. Building, Watertown, S. Dak. 57201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock feed*, in bulk and bags, from points in Lac Qui Parle County, Minn., to points in South Dakota, for 180 days. NOTE: Applicant intends to tack this temporary authority. Supporting shipper: H. O. Hoelscher, Traffic Division Manager, Land O' Lakes Creameries, Inc., 2215 Kennedy Street NE., Minneapolis, Minn. 55413. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 129593 (Sub-No. 6 TA), filed May 7, 1970. Applicant: TIGELAAR & DEWEERD, INC., 5360 South School Street, Hudsonvile, Mich. 49426. Applicant's representative: James R. Sebastion, Jr., Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds*, from plantsite of Murphy Feed Co., Burlington, Wis., to points in the Lower Peninsula of Michigan, for 150 days. Supporting shipper: Murphy Products Co., Inc., 124 South Dodge Street, Burlington, Wis. 53105. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 134575 TA, filed May 7, 1970. Applicant: PAUL J. HELFREY, 20 Tettemer Avenue, Trenton, N.J. 08610. Applicant's representative: David E. Thomas, 1604–14 Philadelphia National Bank Building, Broad and Chestnut Streets, Philadelphia, Pa. 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic duct (telephone wire conduit) and fittings*, from Chesilhurst, New Jersey, Pennsylvania, New York, Delaware, Maryland, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, for 180 days. Supporting shipper: Toronto Plastics and Machine Co., 9 Hendricks Avenue, Route 30, Chesilhurst, N.J. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Bldg., Trenton, N.J. 08608.

No. 134575 (Sub-No. 1 TA), filed May 7, 1970. Applicant: PAUL J. HELFREY, 20 Tettemer Avenue, Trenton, N.J. 08610. Applicant's representative: David E. Thomas, 1604–14 Philadelphia National Bank Building, Broad and Chestnut Streets, Philadelphia, Pa. 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic material* (including flakes, granules, lumps, pellets, and powder), in packages, from Addyston, Ohio, to Chesilhurst, N.J., for the account of Toronto Plastics and Machine Co., 9 Hendricks Avenue, Route 30, Chesilhurst, N.J. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-6012; Filed, May 14, 1970; 8:52 a.m.]

[Notice 535]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 12, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72117. By order of the Motor Carrier Board approved the transfer to Barrington Transportation Co., Inc., Barrington, Ill., of the operating rights in Certificate No. MC-133311 issued December 22, 1970, to Alfred Pahlke and Lorraine Pahlke, a partnership, doing business as Barrington Transportation Co., Barrington, Ill., authorizing the transportation of girl scouts and their baggage between specified points in Illinois and Wisconsin. James F. Flanagan, 111 West Washington Street, Chicago, Ill. 60602, attorney for applicants.

No. MC-FC-72126. By order of May 11, 1970, the Motor Carrier Board approved the transfer to Ronald C. Filkins, Dalton, Mass., of the operating rights in Certificate No. MC-114946 (Sub-No. 2) issued December 3, 1965, to Osborne B. Gaugh, Inc., Southwick, Mass., authorizing the transportation of animal and poultry feed and animal and poultry feed ingredients and additives except liquid commodities in bulk, from North Franklin, Conn., to points in Columbia, Dutchess, and Rensselaer Counties, N.Y., Massachusetts and Rhode Island. William L. Mobley, registered practitioner, 1694 Main Street, Springfield, Mass. 01103, representative for applicants.

No. MC-FC-72137. By order of May 11, 1970, the Motor Carrier Board approved the transfer to Wall Cartage Co., Inc., Philadelphia, Pa., of the operating rights in Certificate No. MC-89940 issued May 7, 1969, to Laura A. Lamenia, doing business as Wall Cartage Co., Philadelphia, Pa., authorizing the transportation of household goods, between Philadelphia, Pa., on the one hand, and, on the other, points in New York, New Jersey, Delaware, and Maryland. Alan F. Wohlstetter, 1 Farragut Square S., Washington, D.C. 20006, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6013; Filed, May 14, 1970; 8:52 a.m.]

[Notice 535A]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 12, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-71673. By order of May 4, 1970, Division 3, acting as an Appellate Division, approved the transfer to Crosby Lumber & Supply, Inc., Springfield, Ariz., of the operating rights in Certificate No. MC-128300 (Sub-No. 2) issued November 4, 1969, to Doy Reidhead, Show Low, Ariz., authorizing the transportation of lumber, from Snowflake, Cutter, Fredonia, and Payson, Ariz., to Port Hueneme, Los Angeles, and San Diego, Calif., to points in New Mexico, and points in that part of Texas on and north of U.S. Highway 80 extending from El Paso, Tex., to Dallas, Tex., and on and west of U.S. Highway 75 extending from Dallas, Tex., to the Oklahoma-Texas State line; from points in Arizona, to points in Nevada; and from points in Los Angeles County, Calif., and points in that part of California north of Interstate Highway 80 to Phoenix, Ariz.; and roofing, from the plantsite of Johns-Manville at or near Los Angeles, Calif., to Globe, Miami, Payson, and Tucson, Ariz. A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85102, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6014; Filed, May 14, 1970; 8:52 a.m.]

[Ex Parte No. 2 3]

[Special Permission 70-3700; Amdt. 3]

INCREASED FREIGHT RATES, 1970

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 11th day of May, 1970.

Upon further consideration of the matters and things involved in Special Permission 70-3700, entered by the Commission March 6, 1970, as amended March 16 and March 18, 1970, and upon consideration of a petition dated April 13, 1970, filed by Edward A. Kaier, Albert B. Russ, Jr., and other attorneys for and on behalf of petitioners in Ex Parte No. 265, for authority to advance the effective date of June 24, 1970 and later, to June 2, 1970, of connecting link supplements providing for general increases in freight rates within and from southern territory, for the purpose of observing a uniform effective date in connection with general increases proposed and under investigation in Ex Parte No. 265, and upon consideration of exceptions to the railroads' petition filed April 23, 1970, by the National Industrial Traffic League, and the railroads' reply thereto dated May 1, 1970, and good cause therefor appearing:

It is ordered, That Special Permission No. 70-3700, entered and amended as aforestated, be, and it is hereby, further modified and amended so as to provide for the filing of supplements upon 15 days' notice to the Commission and to the public to advance the effective date of connecting link supplements and tariff publications from June 24, 1970 and later, as now published, to June 2, 1970.

It is further ordered, That supplements filed under authority of this permission shall make specific reference on the title page thereof to Amendment 3 to Special Permission 70-3700.

And it is further ordered, That, except as herein modified and amended, Special Permission 70-3700 shall be, and remain, in full force and effect.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6010; Filed, May 14, 1970; 8:52 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

3 CFR

Page

PROCLAMATIONS:

3982 ... 6999
3983 ... 7105
3984 ... 7169

EXECUTIVE ORDERS:

July 2, 1910 (revoked in part by PLO 4814) ... 7255
March 28, 1924 (revoked by PLO 4812) ... 7254
April 17, 1926 (revoked in part by PLO 4813) ... 7255

5 CFR

213 ... 6957, 7123, 7124, 7171, 7283, 7426, 7493, 7559
550 ... 7171

7 CFR

19 ... 7493
51 ... 6957, 7249
53 ... 7064
201 ... 7411
301 ... 7001, 7002, 7361
404 ... 7361
411 ... 7361
724 ... 7361
775 ... 6958, 7495
798 ... 7172
877 ... 7064
905 ... 7411
907 ... 7172, 7503
908 ... 7173, 7504
910 ... 7003, 7283, 7362
917 ... 7064
918 ... 7362
944 ... 7504
959 ... 7065
966 ... 7003
1041 ... 7173
1097 ... 7283
1102 ... 7283
1108 ... 7283
1201 ... 7066
1421 ... 7363, 7504
1485 ... 7505
1600 ... 7505

PROPOSED RULES:

29 ... 7427
725 ... 7075
Ch. IX ... 7077
914 ... 7183
981 ... 7428
1005 ... 6965
1006 ... 7023
1007 ... 7566
1012 ... 7023
1013 ... 7023
1032 ... 7082
1033 ... 6965
1034 ... 6965
1035 ... 6965
1041 ... 6965
1050 ... 7082

8 CFR

100 ... 7249
103 ... 7284
204 ... 7284
205 ... 7285
238 ... 7285

8 CFR—Continued

Page

PROPOSED RULES:

103 ... 7018
214 ... 7018

9 CFR

71 ... 7249
76 ... 6958, 7004, 7066, 7107, 7175, 7285, 7370, 7376, 7412, 7505

10 CFR

1 ... 7285

12 CFR

1 ... 7549
207 ... 6959, 7376
220 ... 7249, 7376
221 ... 6959, 7250, 7377
226 ... 7550
545 ... 7377
561 ... 7377
563 ... 7377
608 ... 7005

PROPOSED RULES:

545 ... 7130
563 ... 7131

14 CFR

21 ... 7292
25 ... 7108
29 ... 7293
37 ... 6914
39 ... 6916, 6917, 7006, 7051, 7293, 7294, 7378, 7551, 7552
61 ... 7007
71 ... 6917, 7051, 7108, 7109, 7175–7177, 7237, 7294, 7378, 7379, 7412, 7552, 7553
73 ... 6917, 7051, 7295, 7553
75 ... 7051, 7109, 7553
91 ... 7108, 7293
97 ... 6918, 7052, 7237, 7506
121 ... 7108, 7293
127 ... 7293
202 ... 7109
203 ... 7110
205 ... 7110
207 ... 7295
208 ... 7295
212 ... 7297
214 ... 7298
221 ... 7298
287 ... 7110
295 ... 7298
302 ... 7111
376 ... 7111

PROPOSED RULES:

39 ... 6967, 7185, 7435, 7436
71 ... 6968, 6969, 7186, 7303–7305, 7384, 7436, 7584–7586
73 ... 6969
75 ... 7020, 7305
91 ... 7020
121 ... 7021, 7083
127 ... 7083
207 ... 7587
208 ... 7587
212 ... 7587

14 CFR—Continued

Page

PROPOSED RULES—Continued

214 ... 7587
221 ... 7513
249 ... 7587
295 ... 7587
399 ... 7587

15 CFR

371 ... 7379
1000 ... 7220, 7228

PROPOSED RULES:

1000 ... 7183

16 CFR

13 ... 7007–7009, 7298, 7507–7511

PROPOSED RULES:

90 ... 6969
425 ... 7437

17 CFR

249 ... 7068

PROPOSED RULES:

270 ... 7132

18 CFR

2 ... 7511
250 ... 7010
260 ... 6960, 7412
620 ... 7379

PROPOSED RULES:

2 ... 7385
157 ... 7262, 7385
201 ... 7262
204 ... 7262
260 ... 7262

19 CFR

4 ... 7299

21 CFR

2 ... 7068, 7299
53 ... 7178
120 ... 7178, 7179, 7300, 7553, 7554
121 ... 7068, 7180, 7414
130 ... 7250
135b ... 7253
135c ... 7181, 7380
135e ... 7300
135g ... 7181, 7300
146 ... 7250
148k ... 7415
191 ... 7415
320 ... 7069

PROPOSED RULES:

19 ... 7568
120 ... 7569
135 ... 7569
144 ... 7569
191 ... 7303

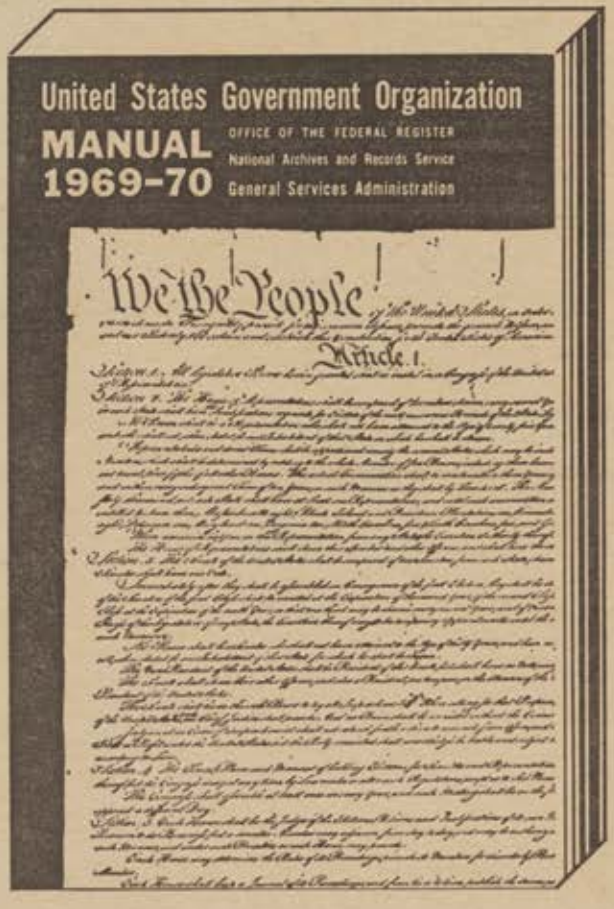
22 CFR

41 ... 7554

24 CFR

200 ... 7381
1914 ... 7012, 7560
1915 ... 7013, 7561

United States Government Organization MANUAL 1969–70



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