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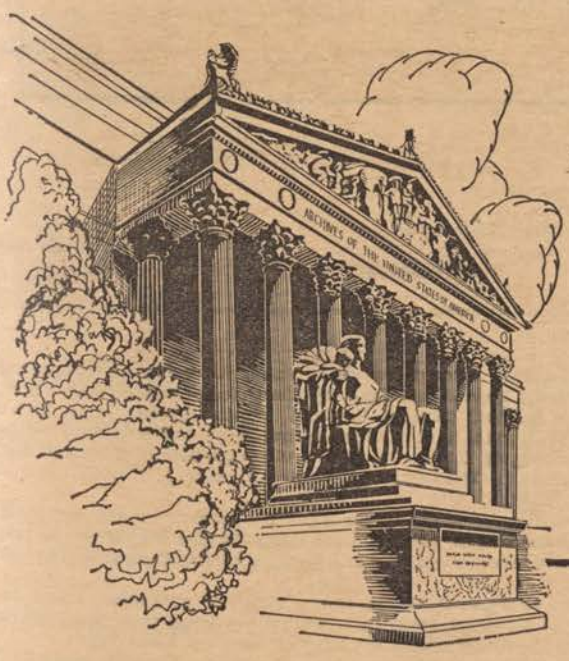
Agencies in this issue—

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, 1968, and specifies how they are affected.

3 CFR

PROCLAMATION:

3862 ... 11973

7 CFR

301 ... 11985
922 ... 11985

PROPOSED RULES:

1001 ... 12004
1002 ... 12004
1003 ... 12004
1004 ... 12004
1015 ... 12004
1016 ... 12004
1064 ... 12006

14 CFR

39 (3 documents) ... 11975, 11976
71 (2 documents) ... 11977
91 ... 11977
97 ... 11978

PROPOSED RULES:

75 ... 12009

15 CFR

50 ... 11984

16 CFR

13 (2 documents) ... 11985, 11986
15 (3 documents) ... 11986, 11987
153 ... 11987
248 ... 11987

17 CFR

201 ... 11990

19 CFR

22 ... 11990

21 CFR

1 ... 11991
141 ... 11991

26 CFR

1 ... 11997

29 CFR

PROPOSED RULES:

1501 ... 12008
1502 ... 12008
1503 ... 12008

32 CFR

931 ... 12001

38 CFR

3 ... 12001
8 ... 12002

41 CFR

101–47 ... 12003

47 CFR

PROPOSED RULES:

73 ... 12009

49 CFR

PROPOSED RULES:

1056 ... 12010

50 CFR

PROPOSED RULES:

32 ... 12008

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3862

GENERAL PULASKI'S MEMORIAL DAY, 1968

By the President of the United States of America

A Proclamation

On October 11, 1779, Brigadier General Casimir Pulaski died from wounds received during the siege of Savannah, Georgia. His death ended a career of brilliant leadership and courage in the service of freedom and independence.

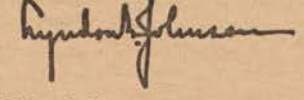
He was not born in the land he learned to love so well. As a young man in exile from his own country, Count Pulaski joined the Continental Army, was appointed a brigadier general and commander of cavalry, and distinguished himself in the battles of Brandywine and Germantown. He raised and commanded a corps known as the Pulaski Legion.

On November 29, 1779, the Continental Congress, in recognition of his service and sacrifice, resolved that a monument should be erected to this brave son of Poland.

On the one hundred and eighty-ninth anniversary of his death, it is fitting that we commemorate General Pulaski for his devotion to our Nation, as a continuing example to all men who strive toward the goals of freedom and justice.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America do hereby designate Friday, October 11, 1968, as General Pulaski's Memorial Day; and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day. I also invite the people of the United States to observe the day with appropriate ceremonies in schools, churches, and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of August, in the year of our Lord nineteen hundred and sixty-eight, and of the Independence of the United States of America the one hundred and ninety-third.



[F.R. Doc. 68-10272; Filed, Aug. 21, 1968; 4:33 p.m.]

Rules and Regulations

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 68–CE–11–AD; Amdt. 39–639]

PART 39—AIRWORTHINESS DIRECTIVES

Certain Cessna Model Airplanes

There have been a large number of failures of the pneumatic stall warning system, Cessna Part No. 0413029–200, installed on the subject models of Cessna aircraft. The failure of this system deprives the pilot of an approved device which performs the required function of alerting him to the fact that the aircraft is approaching or has entered a stalled position. The proper functioning of this system is a certification requirement and the high instance of failures is unacceptable.

Since this condition is likely to exist or develop in other airplanes of the same type design an airworthiness directive is being issued requiring a test of the pneumatic stall warning system prior to flight on all those Cessna model airplanes hereinafter listed in order to determine that the system is functioning properly. The recommended method of preflight testing is provided in paragraph 16–53A of Cessna 100 Series Service Manual, 1963 through 1967. The airworthiness directive will also require, within 10 hours time-in-service after its effective date, the installation of a placard on the instrument panel in full view of the pilot which reads as follows: "Preflight Test the Pneumatic Stall Warning System as directed in AD 68–17–4." If, as a result of the preflight test, it is determined that the pneumatic stall warning system is not functioning properly, it must be repaired prior to further flight. The required repair involves replacing the reed assembly Cessna Part No. 0413028–1 with Cessna reed assembly Part No. 0413483–2 and additionally by affixing 18 x 14 or 18 x 16 mesh screens over the exposed horn bell in the cabin and over the left wing opening and thereafter flight testing the aircraft to assure that the system will sound at the required speed as specified in the pertinent Cessna Service Manual. When the system has been so modified, the test may be discontinued and the placard removed. If the preflight test discloses an improperly functioning pneumatic stall warning system and parts needed for the required repair are not available, the system may be repaired by installing a properly functioning pneumatic stall warning system, Cessna Part No. 0413029–200. Under the circumstances the preflight test must be continued.

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

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

CESSNA. Applies to Models 150 (Serial Nos. 15061533 through 15069308), 172 (Serial Nos. 17254893 through 17257161), 177 (Serial Nos. 17700001 through 17701164), 180 (Serial Nos. 18051824 through 18051977), 185 (Serial Nos. 185–1198 through 185–1429), F150 (Serial Nos. F150–0001 and up), F172H (Serial Nos. F172–0320 and up), and Reims Rocket (Serial Nos. FR172–0001 and up) airplanes equipped with pneumatic stall warning system, Cessna Part No. 0413029–200, and those models 150, 172, 177, and 185 airplanes other than the Serial Numbers listed above in which the pneumatic stall warning system has been installed as a replacement for the orginally installed system.

Compliance: Required as indicated.

To assure proper operation of the stall warning system in flight, accomplish the following:

(a) Prior to flight, test the pneumatic stall warning system and determine if it is functioning properly, as provided in Paragraph 16–53A of Cessna 100 Series Service Manual, 1963 through 1967, which tells operators to test the horn operation by covering the opening in the left wing with a clean cloth, such as a handkerchief, and applying a slight suction by mouth to draw air through the horn. A properly functioning horn will provide a sound that is clearly audible. The check required by this part of the airworthiness directive may be performed by the pilot.

(b) Within 10 hours time-in-service after the effective date of this airworthiness directive, install a placard on the instrument panel in full view of the pilot with the following wording: "Preflight Test the Pneumatic Stall Warning System as Directed by AD 68–17–4."

(c) If, as a result of the preflight test required in Paragraph (a) of this airworthiness directive, it is determined that the pneumatic stall warning system is not functioning properly, repair it by removal of Cessna reed assembly Part No. 0413028–1 and the installation of Cessna reed assembly Part No. 0413483–2 and by the affixing of 18 x 14 or 18 x 16 mesh screens over the exposed horn bell inside the cabin and over the left wing opening or by any other modification approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region. Thereafter, flight test the aircraft to assure that the stall warning horn sounds at 5 to 10 miles per hour above the stall warning speed, and if not, recalibrate in accordance with the provisions of the aforecited paragraph of the Cessna 100 Series Service Manual or paragraph 15–41 of the Model 177 Service Manual.

(d) If, as a result of the preflight test required in Paragraph (a) of this airworthiness directive, it is determined that the pneumatic stall warning system is not functioning properly, and parts for the repair of the pneumatic stall warning system as called for in Paragraph (c) of this airworthiness directive are not available, repair the system by installing a properly functioning pneumatic stall warning system, Cessna Part No. 0413029–200 and continue the required preflight test until the repair called for in Paragraph (c) of this airworthiness directive has been accomplished.

(e) After completion of the repair referred to in Paragraph (c) above, the preflight test specified in Paragraph (a) of this airworthiness directive may be discontinued and the placard required in Paragraph (b) of this airworthiness directive removed from the aircraft.

This amendment becomes effective August 23, 1968.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Kansas City, Mo., on August 14, 1968.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 68–10188; Filed, Aug. 22, 1968; 8:48 a.m.]

[Docket No. 68–CE–12–AD; Amdt. 39–641]

PART 39—AIRWORTHINESS DIRECTIVES

Certain Beech Model Airplanes

There have been reports that the parking brakes on the Beech Model 23 aircraft have been inadvertently engaged during flight by depression of the left brake pedal when left rudder is applied and has resulted in control difficulties on touchdown. This condition has apparently resulted from a failure of the spring provided in brake cylinders VHR–625NL to keep the lever in the parking brake released position.

Since this condition is likely to exist or develop in other airplanes in which the subject brake cylinder is installed an airworthiness directive is being issued requiring prior to further flight either disengagement of the parking brake by removal of the steel ball Part No. A134–9 from the parking brake check valve in the cylinders or, in the alternative, modification of the brake cylinder by the replacement of roll pin Part No. A132–154 with spring loaded roll pin Part No. MS–9048–074 and the cutting out of the floor boards beneath the brake pedal so as to allow full travel, in accordance with Beech Class 1, Service Instruction 0092–220. Another acceptable modification is also provided in Beech Service Letter No. 67–12, Revision 1. Either of the Beech documents can be obtained from Beech upon request.

Since immediate adoption is required in the interest of safety, compliance with the notice and public procedures provision of the Administrative Procedure

Act is not practical and good cause exists for making this rule effective in less than 30 days.

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

BEECH. Applies to Models 23, A23, and A23A, Serial Nos. M-1 through M-1034; Model A23-19, Serial Nos. MB-1 through MB-264; Model A23-24, Serial Nos. MA-1 through MA-233

Compliance: Required as indicated.

To prevent inadvertent engagement of parking brake, in flight, accomplish the following:

(a) For Models 23, A23, and A23A, Serial Nos. M-555 through M-1034; Model A23-19, Serial Nos. MB-1 through MB-264; and Model A23-24, Serial Nos. MA-1 through MA-233 modify the master brake cylinders as set forth in (c) or (d).

(b) For Models 23, A23, and A23A, Serial Nos. M-1 through M-554, inspect the left master brake cylinder. If brake cylinder Part No. 169-380006 is installed no further action is required. If brake cylinders Part No. VHR-625NL are installed modify as set forth in (c) or (d).

(c) Remove the steel ball Part No. A134-9 from the parking brake check valve on both left and right master brake cylinders so as to disengage the parking brake and thereafter operationally check the brakes to assure proper operation; or,

(d) Modify the left master brake cylinder in accordance with either Beech Class 1, Service Instruction 0092-220 and drill out the floor board beneath the left brake pedal in accordance with procedures set forth in the aforesaid Beech Service Instruction, or install the improved braking system provided by Beech Service Letter No. 67-12, Revision 1.

(e) The foregoing modification must be accomplished prior to further flight except the airplane may be flown in accordance with Federal Aviation Regulation 21.197 to a base where the repair can be performed.

This amendment becomes effective August 27, 1968.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Kansas City, Mo., on August 16, 1968.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 68-10189; Filed, Aug. 22, 1968; 8:48 a.m.]

[Airworthiness Docket No. 68-WE-12-AD; Amdt. 39-640]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707 and 720 Series Airplanes

Amendment 794, Part 507 (29 F.R. 11745, Aug. 18, 1964), AD 64-18-1, requires repetitive inspections of the wing lower skin at the two outboard fasteners attaching a splice plate tab to the wing skin just aft of the front spar at wing station 392 and at the farthest inboard fastener common to the inboard drag fitting of the inboard nacelle, the wing skin and the lower front spar chord. Repairs of the lower wing skin were prescribed. After issuing Amendment 794, Part 507, due to service experience, the Administration has determined that the repairs and preventative modifications specified in AD 64-18-1 are inadequate and further, cracks in the skin emanating from fasteners for the front spar support fitting and the fairing attach angle, which are in the same area as the previous cracks, have occurred. Therefore, AD 64-18-1 is superseded by a new AD that requires inspections for cracks in the lower wing skin at the front spar inboard of the inboard strut, and specified repairs or modifications, if appropriate.

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 30 days after 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), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

BOEING: Applies to all Boeing 707/720 series aircraft listed in Boeing Service Bulletin 1995 (Revision 5) dated September 28, 1967 or later FAA approved revisions.

Compliance required as indicated.

To detect cracking and prevent failure of the lower wing skin at front spar station 392, accomplish the following:

(a) Inspect the lower wing skin of aircraft which have not been repaired by installation of the small repair doubler (identified on Page 25, Boeing Service Bulletin 1995, Revision 5), for cracks emanating from the two outboard fasteners of the splice plate tab as noted in Figure 1 of Boeing Service Bulletin 1995 (Revision 5) by use of dye penetrant inspection techniques, at the times specified in (h), (i), (j), or (k) as appropriate, and, if cracks are found, repair prior to further flight per (f) or (g).

(b) Inspect the lower wing skin of aircraft which have been repaired by installation of the small repair doubler in accordance with Boeing Service Bulletin 1995, within 1,600 hours after installation or within the next 400 hours' time in service after the effective date of this AD, unless inspected within the previous 1,200 hours' time in service and at intervals thereafter not to exceed 1,600 hours' time in service per (e).

(c) Inspect the lower wing skin for cracks emanating from the inboard attachments of the front spar support fitting as noted in Figure 1 of Boeing Service Bulletin 1995 (Revision 5) by use of dye penetrant inspection techniques at the times specified in (h), (i), (j), or (k) as appropriate, and, if cracks are found, repair prior to further flight per (g).

(d) Aircraft which have not had the drag fitting trimmed and the fairing attach angle modified in accordance with Boeing Service Bulletin 1995, within the next 400 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 800 hours' time in service, inspect for cracks in the lower wing skin emanating from the forward fastener for the drag fitting and the fasteners for the fairing attach angle as noted in Figure 1 of Boeing Service Bulletin 1995 (Revision 5), by use of eddy current inspection techniques (dye pentrant inspection techniques are acceptable for inspection of skin around fairing attach angle fasteners) at the threshhold times specified in (h), (i), (j), or (k) as appropriate. If cracks are found around the fairing attach angle or emanating aft from the drag fitting fastener, rework the drag fitting, doubler and skin prior to further flight in accordance with (g). If cracks are found emanating forward from the drag fitting fastener rework the drag fitting, doubler and skin prior to further flight in accordance with Boeing Service Bulletin 1995 (Revision 5 or later FAA approved revision) or equivalent rework and modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) Inspect the lower wing skin covered by the small repair doubler for cracks by use of the X-ray inspection techniques noted in Boeing Service Bulletin 1995 (Revision 5 or later FAA approved revisions) or an equivalent inspection technique approved by the Chief, Aircraft Engineering Division, FAA Western Region. Repeat inspections at intervals not to exceed 1,600 hours' time in service. If crack growth is found, repair prior to further flight in accordance with (g).

(f) If the cracks fall within the crack length limits outlined in the paragraph titled "Installation of the small repair doubler," (Part II, Boeing Service Bulletin 1995, Revision 5 or later FAA approved revisions) repair in accordance with that section of the bulletin or later FAA approved revisions. Within 1,600 hours after installation of the doubler, inspect in accordance with (e).

(g) Upon completion of any of the following modifications, the inspections required by this AD may be discontinued:

1. Installation of 65-56257-1-2 or 65-57788-1-2 doublers as appropriate, per Boeing Service Bulletin 1995 (Revision 5 or later FAA approved revisions).
2. Boeing Service Bulletin 2484.
3. Boeing Service Bulletin 2487.
4. Installation of the 720 Wing Structural Improvement Program (per Boeing Document 65-12700) accomplished at Boeing's Wichita facility.
5. An equivalent installation approved by the Chief, Aircraft Engineering Division, Western Region, FAA.

(h) For those airplanes listed in Boeing Service Bulletin 1995 (Revision 5 or later FAA approved revisions) Part I, and having less than 6,000 (for 720 series) or less than 10,000 (for 707 series) hours' time in service on the effective date of this AD, prior to the accumulation of 6,800 or 10,800 hours' time in service, respectively, and thereafter not to exceed 800 hours time in service from the last inspection.

(i) For aircraft listed in Boeing Service Bulletin 1995 (Revision 5 or later FAA approved revisions) Part I, and having 6,000 or more (in the case of 720 series aircraft) or 10,000 or more (in the case of 707 series aircraft) hours' time in service on the effective date of this AD, within the next 400 hours' time in service, unless accomplished within the last 400 hours' time in service, and at intervals thereafter not to exceed 800 hours' time in service.

(j) For aircraft listed in Boeing Service Bulletin 1995 (Revision 5 or later FAA approved revisions), Part II, and having less than 10,000 (in the case of the 720 series) or less than 15,000 (in the case of the 707 series) hours' time in service on the effective date of this AD, prior to the accumulation of 10,800 or 15,800 hours' time in service, respectively, and thereafter at intervals not to exceed 800 hours' time in service from the last inspection.

(k) For aircraft listed in Boeing Service Bulletin 1995 (Revision 5 or later FAA approved revisions), Part II, and having 10,000 or more (in the case of the 720 series) or 15,000 or more (in the case of the 707 series) hours' time in service on the effective date of this AD, within the next 400 hours' time in service unless accomplished within the last 400 hours' time in service, and at intervals thereafter not to exceed 800 hours' time in service.

(l) Airplanes having cracks which require rework under this AD may be flown in accordance with FAR 21. 197 with the concurrence of Chief, Aircraft Engineering Division, FAA Western Region, to a base where the rework can be accomplished.

(m) Upon request of an operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western 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 such operator.

This AD supersedes Amendment 794, Part 507 (29 F.R. 11745), AD 64–18–1.

This Amendment becomes effective September 23, 1968.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended; 49 U.S.C. 1354(a) 1421, 1423)

Issued in Los Angeles, Calif., on August 15, 1968.

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

[F.R. Doc. 68–10190; Filed, Aug. 22, 1968; 8:48 a.m.]

[Airspace Docket No. 68–SO–41]

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

Alteration of Transition Area

On July 2, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 9621), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Vicksburg, Miss., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 17, 1968, as hereinafter set forth.

In § 71.181 (33 F.R. 2137), the Vicksburg, Miss., transition area is amended to read:

VICKSBURG, MISS.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Vicksburg Municipal Airport (lat. 32°14'-20" N., long. 90°55'40" W.); within 2 miles each side of the Vicksburg VOR 311° radial, extending from the 10-mile radius area to 8 miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 096° bearing from Vicksburg Municipal Airport, extending from the airport to 12 miles east; within 8 miles south and 5 miles north of the 276° bearing from Vicksburg Municipal Airport, extending from the airport to 12 miles west; within 8 miles southwest and 5 miles northeast of the Vicksburg VOR 311° radial, extending from the VOR to 12 miles northwest.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on August 14, 1968.

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

[F.R. Doc. 68–10157; Filed, Aug. 22, 1968; 8:45 a.m.]

[Airspace Docket No. 68–SO–38]

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

Revocation of Control Zone, Designation of Control Zone, and Alteration of Transition Area

On June 6, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 8393), stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would revoke the Jacksonville, Fla. (Thomas Cole Imeson Airport), control zone, designate the Jacksonville, Fla. (Jacksonville International Airport), control zone, and alter the 700-foot floor portion of the Jacksonville, Fla., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 6, 1968, as hereinafter set forth.

In § 71.171 (33 F.R. 2058), the Jacksonville, Fla. (Thomas Cole Imeson Airport), control zone (33 F.R. 6913) is revoked.

In § 71.171 (33 F.R. 2058), the following control zone is added:

JACKSONVILLE, FLA. (INTERNATIONAL AIRPORT)

Within a 5-mile radius of Jacksonville International Airport (lat. 30°29'16" N., long. 81°41'20" W.); within 2 miles each side of the Jacksonville VORTAC 284° radial, extending from the 5-mile radius zone to 2 miles west of the VORTAC.

In § 71.181 (33 F.R. 2137), the Jacksonville, Fla., 700-foot transition area (33 F.R. 6913) is amended to read:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Jacksonville International Airport (lat. 30°29'16" N., long. 81°41'20" W.); within an 8-mile radius of NS Mayport (lat. 30°23'30" N., long. 81°25'25" W.); within 2 miles each side of the Navy Mayport TACAN 041° radial, extending from the NS Mayport 8-mile radius area to 12 miles northeast of the TACAN; within a 5-mile radius of Craig Municipal Airport (lat. 30°20'10" N., long. 81°30'50" W.); within 2 miles each side of the Jacksonville VORTAC 160° radial, extending from the 5-mile radius area to the VORTAC; within an 8-mile radius of NAS Jacksonville (lat. 30°14'10" N., long. 81°40'40" W.); within an 8-mile radius of NAS Cecil Field (lat. 30°13'05" N., long. 81°52'45" W.);

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on August 14, 1968.

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

[F.R. Doc. 68–10158; Filed, Aug. 22, 1968; 8:46 a.m.]

[Regulatory Docket No. 9092; Special Federal Aviation Regulation No. 20]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Flight Limitations in Proximity; Vice President, Presidential and Vice Presidential Candidates

The purpose of this Special Federal Aviation Regulation is to establish provision for restricting such flight operations in the vicinity of the Vice President, presidential and vice-presidential candidates as may be necessary for safety in air commerce and for the protection of persons or property on the ground.

Section 91.104 presently prohibits the operation of aircraft, over or in the vicinity of areas to be visited or traveled by the President, contrary to the restrictions specified in a Notice to Airmen (NOTAM). In many cases, public interest in the Vice President, presidential and vice-presidential candidates causes a similar assembly of a large number of persons and attracts numerous aircraft along the route and in the vicinity of the areas visited by these persons. Therefore, it is prudent to apply similar flight restrictions to aircraft being operated in proximity of these individuals.

This Special Federal Aviation Regulation will establish an expeditious method of prescribing such air traffic limitations as may be necessary to immediately safeguard the public. It will also aid air safety by avoiding potential air traffic congestion which can be foreseen over the Vice President, presidential and vice-presidential candidates.

Since the circumstances associated with each particular situation are too varied, it is impossible to promulgate a regulation to satisfy each unique case. Accordingly, any restriction will be designated in a NOTAM issued by the Administrator.

Since this Special Federal Aviation Regulation is required immediately for the safety of air navigation and persons on the ground, it has been determined by the FAA that it is impracticable to comply with the notice and public procedure provisions of Title 5, Chapter 5 of the United States Code and that good cause exists for making this regulation effective in less than 30 days.

In consideration of the foregoing, the following Special Federal Aviation Regulation is hereby adopted to become effective August 20, 1968.

No person may operate an aircraft, over or in the vicinity of areas to be visited or traveled by the Vice President, presidential and vice-presidential candidates, contrary to the limitations specified in a Notice to Airmen (NOTAM).

This Special Federal Aviation Regulation shall terminate February 1, 1969.

(Secs. 307, 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1354 and 1421)

Issued in Washington, D.C., on August 20, 1968.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 68–10191; Filed, Aug. 22, 1968; 8:48 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 9072; Amdt. 611]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending § 97.11 of Subpart B to delete low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

Santa Barbara, Calif.—Municipal, ADF 1, Amdt. 2, 27 May 1965 (established under Subpart C).
Wilmington, N.C.—New Hanover County, NDB (ADF) Runway 34, Amdt. 6, 6 Jan. 1968 (established under Subpart C).
Holland, Mich.—Park Township, VOR–1, Orig., 26 Aug. 1967 (established under Subpart C).
Wilmington, N.C.—New Hanover County, VOR 1, Amdt. 3, 6 Mar. 1965 (established under Subpart C).

2. By amending § 97.15 of Subpart B to amend very high frequency omnirange-distance measuring equipment (VOR/DME) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
YK LFR	YAK VOR	Direct	1200	T–dn	300–1	300–1	200–½
50 DME Fix (R 090°)	20 DME Fix (090°)	Direct	8000	C–dn	500–1	500–1	500–1½
R 090°, YAK VORTAC clockwise	R 110° YAK VORTAC	20-mile Arc	2000	S–dn–29*	400–1	400–1	400–1
		YAK, R 100° lead radial.		A–dn	800–2	800–2	800–2

Procedure turn S side of crs, 118° Outbnd, 298° Inbnd, 1200′ within 10 miles.
Descend to 700′ after 8-mile DME Fix. Descend to 400′ after 4-mile DME Fix.
Crs and distance, breakoff point to approach end of Runway 29, 286°—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of YAK VOR, climb to 1700′ on YAK VOR, R 268° within 15 miles.

NOTE: When authorized by ATC, DME may be used to position aircraft for final approach at 1200′ between radials 110° clockwise to 268° within 10 miles with the elimination of procedure turn. Within 30 miles of YAK VOR when on airways, descent to 1200′ authorized.
*400–¾ authorized, except for 4-engine turbojet aircraft, with operative high-intensity runway lights.
MSA within 25 miles of facility: 000°–090°—6700′; 090°–180°—2000′; 180°–270°—2000′; 270°–360°—8000′.

City, Yakutat; State, Alaska; Airport name, Yakutat; Elev., 37′; Fac. Class., BVORTAC; Ident., YAK; Procedure No. VOR/DME No. 3, Amdt. 3; Eff date, 12 Sept. 68; Sup. Amdt. No. 2; Dated, 4 June 66

3. By amending § 97.17 of Subpart B to delete instrument landing system (ILS) procedures as follows:

Bangor, Maine—Bangor International Airport, ILS–33, Amdt. 2, 26 Nov. 1966 (established under Subpart C).
Santa Barbara, Calif.—Municipal, ILS–7, Amdt. 12, 27 May 1965 (established under Subpart C).
Wilmington, N.C.—New Hanover County, ILS–16, Orig. 18 June 1966 (back crs) (established under Subpart C).
Wilmington, N.C.—New Hanover County, ILS Runway 34, Amdt. 1 0, 6 Jan. 1968 (established under Subpart C).

4. By amending § 97.19 of Subpart B to cancel radar procedures as follows:

Bangor, Maine—Dow AFB, Radar 1, Amdt. 3, 24 Sept. 1966.

5. By amending § 97.23 of Subpart C to establish very high frequency omnirange (VOR) and very high frequency-distance measuring equipment (VOR/DME) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 1.9 miles after passing BGR VOR.
				Make left-climbing turn to 2000′ direct BGR VOR and hold. Supplementary charting information: Hold NW of BGR VOR, 1-minute left turns, 157° Inbnd. Chart in plan view.@ TDZ elevation, 192′.

Procedure turn E side of crs, 337° Outbnd, 157° Inbnd, 2000′ within 10 miles of BGR VOR.
FAF, BGR VOR. Final approach crs, 157°. Distance FAF to MAP, 1.9 miles.
Minimum altitude over BGR VOR, 900′.
MSA: 000°-090°—2500′; 090°-180°—2400′; 180°-270°—2800′; 270°-360°—2200′.
@1. Approach from a holding pattern not authorized, procedure turn required.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-15	520	¾	328	520	¾	328	520	¾	328	520	1	328
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	640	1	448	660	1	468	660	1½	468	940	2	748
A	Standard.		T 2-eng. or less—Standard.					T over 2-eng.—Standard.				

City, Bangor; State, Maine; Airport name, Bangor International Airport; Elev., 192′; Facility BGR; Procedure No. VOR Runway 15, Amdt. Orig.; Eff. date, 12 Sept. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5 miles after passing highway int.
MKG VORTAC	Highway Int	MKG, R 209° and PMM, R 353°.	2300	Climb to 2300′, turn left and return to Highway Int.
GRR VOR	Highway Int	Direct	2300	Supplementary charting information: Final approach crs crosses intersection of Runways 5/30.
PMM VORTAC	Highway Int (NOPT)	Direct	2300	

Procedure turn W side of crs, 173° Outbnd, 353° Inbnd, 2300′ within 10 miles of Highway Int.
FAF, Highway Int. Final approach crs, 353°. Distance FAF to MAP, 5 miles.
Minimum altitude over Highway Int, 2300′.
MSA 000°-090°—2900′; 090°-180°—2400′; 180°-270°—2200′; 270°-360°—2100′.
NOTES: (1) Use Muskegon, Mich. altimeter setting. (2) Dual VOR receivers or DME required.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	1140	1	528	1180	1	568	1180	1½	568	NA
A	Not authorized.		T 2-eng. or less—Standard.					T over 2-eng.—Standard.		

City, Holland; State, Mich.; Airport name, Park Township; Elev., 612′; Facility, PMM; Procedure No. VOR-1, Amdt. 1; Eff. date, 12 Sept. 68; Sup. Amdt. No. Orig.; Dated, 26 Aug. 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5 miles after passing ILM VORTAC.
R 356°, ILM VORTAC clockwise	R 021°, ILM VORTAC	8-mile DME Arc	1500	Climb to 1700′ on R 201° within 15 miles o ILM VORTAC or, when directed by ATC, left turn, climb to 1700′ direct to LOM and hold.
R 040°, ILM VORTAC counterclockwise	R 021°, ILM VORTAC	8-mile DME Arc	1500	
8-mile Arc	ILM VORTAC (NOPT)	ILM, R 021°	1000	

Supplementary charting information: Hold SE, 343° Inbnd, right turn, 1 minute.

Procedure turn W side of crs, 021° Outbnd, 201° Inbnd, 1500′ within 10 miles of ILM VORTAC.
FAF, ILM VORTAC. Final approach cs, 201°. Distance FAF to MAP, 5 miles.
Minimum altitude over ILM VORTAC, 1000′.
MSA; 000°–090°—1500′; 090°–180°—1700′; 180°–270°—2300′; 270°–360°—2100′.

DAY AND NIGHT MINIMUMS

Cond	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	540	1	509	540	1	509	540	1½	509	580	2	549
A	Standard.		T 2-eng. or less—RVR 24, Runway 34; Standard all other runways.				T over 2-eng.—RVR 24, Runway 34; Standard all other runways.					

City, Wilmington; State, N.C.; Airport name, New Hanover County; Elev., 31′; Facility, ILM; Procedure No. VOR-1 Amdt. 4; Eff. date, 12 Sept. 68; Sup. Amdt. No. VOR1, Amdt. 3; Dated, 6 Mar. 65

6. By amending § 97.23 of Subpart C to amend very high frequency omnirange (VOR) and very high frequency-distance measuring equipment (VOR/DME) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.6 miles after passing TCL VOR TAC.
Oak Grove Int	Holt Int	Direct	2300	Climb to 2300′, R 228° TCL VORTAC.
OKW VOR	Holt Int	Direct	2300	Supplementary charting information: Fi-
Holt Int	TCL VORTAC (NOPT)	R 058°	1400	nal approach crs intercepts runway centerline 3000′ from threshold. TDZ elevation, 164′.

Procedure turn N side of crs, 058° Outbnd, 238° Inbnd, 2300′ within 10 miles of TCL VORTAC.
FAF, TCL VORTAC. Final approach crs, 238°. Distance FAF to MAP, 3.6 miles.
Minimum altitude over TCL VORTAC, 1400′; over 2.3-mile DME, 620′.
MSA: 000°–180°—2100′; 180°–270°—1900′; 270°–360°—1700′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–22	620	1	456	620	1	456	620	1	456	620	1	456
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	680	1	511	680	1	511	680	1½	511	740	2	571
VOR/DME Minimums:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–22	560	1	396	560	1	396	560	1	396	560	1	396
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Tuscaloosa; State, Ala.; Airport name, Van De Graaff; Elev., 169′; Facility, TCL; Procedure No. VOR Runway 22, Amdt. 1; Eff. date, 12 Sept. 68; Sup. Amdt. No. Orig.; Dated, 11 July 68

7. By amending § 97.25 of Subpart C to establish localizer (LOC) and localizer-type directional aid (LDA) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.7 miles after passing Wesley Int.
ILM VORTAC	Wesley Int	R 277°—3.4-mile DME	1600	Climb to 1700′ on ILM LOC crs, 163° to "IL" LOM and hold.
IL LOM	Wesley Int	Direct	1600	Supplementary charting information: Hold SE, 343° Inbnd, right turn, 1 minute. TDZ elevation, 30′.

Procedure turn W side of crs, 343° Outbnd, 163° Inbnd, 1600′ within 10 miles of Wesley Int.
FAF, Wesley Int. Final approach crs, 163°. Distance FAF to MAP, 4.7 miles.
Minimum altitude over Wesley Int, 1400′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-16	460	¾	430	460	¾	430	460	¾	430	460	1	430
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	540	1	509	540	1	509	540	1½	509	580	2	549
A	Standard.		T 2-eng. or less—RVR 24, Runway 34; Standard all other runways.				T over 2-eng.—RVR 24, Runway 34; Standard all other runways.					

City, Wilmington; State, N.C.; Airport name, New Hanover County; Elev., 31′; Facility, I-ILM; Procedure No. LOC(BC) Runway 16, Amdt. 1; Eff. date, 12 Sept. 68; Sup. Amdt. No. ILS-16, Orig.; Dated, 18 June 66 (back crs)

8. By amending § 97.27 of Subpart C to establish nondirectional beacon (automatic direction finder) (NDB/ADF) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.9 miles after passing BG LOM.
Bangor VORTAC	BG LOM	Direct	2300	Make left-climbing turn to 2300′ direct to BG LOM and hold. Supplementary charting information: Hold SE of BG LOM, 334° Inbnd, 1-minute left turns. 327′ standpipe, 0.5 mile NE approach end Runway 33; 632′ antenna, 2.5 miles NE; 882′ antenna located 0.8 mile NE of LOM. TDZ elevation, 163′.

Procedure turn W side of crs, 154° Outbnd, 334° Inbnd, 2300′ within 10 miles of BG LOM.
FAF, BG LOM. Final approach crs, 334°. Distance FAF to MAP, 5.9 miles.
Minimum altitude over BG LOM, 2000′.
MSA: 000°-090°—2500′; 090°-180°—2500′; 180°-270°—2400′; 270°-360°—2800′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-33	700	¾	537	700	¾	537	700	¾	537	700	1¼	537
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	700	1	508	700	1	508	700	1½	508	940	2	748
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Bangor; State, Maine; Airport name, Bangor International Airport; Elev., 192′; Facility, BG; Procedure No. NDB(ADF) Runway 33, Amdt. Orig.; Eff. date, 12 Sept. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP; HLM NDB.
MKG VORTAC	HLM NDB	Direct	2300	Climb to 2300', turn left and return to NDB.
GRR VOR	HLM NDB	Direct	2300	
PMM VORTAC	HLM NDB	Direct	2300	

Procedure turn W side of crs, 175° Outbnd, 355° Inbnd, 2300' within 10 miles of HLM NDB.
Final approach crs, 355°.
Minimum altitude over HLM NDB, 1260'.
MSA; 000°-090°—2200'; 090°-180°—2900'; 180°-270°—2000'; 270°-360°—2100'.

NOTE: Use Muskegon, Mich., altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	1260	1	648	1260	1	648	1260	1½	648	NA
A	Not authorized.		T 2-Eng. or less—Standard.				T over 2-Eng.—Standard.			

City, Holland; State, Mich.; Airport name, Park Township; Elev., 612'; Facility, HLM; Procedure No. NDB(ADF)-1, Amdt. Orig.; Eff. date, 12 Sept. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: BA LMM.
GVO VOR	Canyon Int	Direct	5000	Climbing right turn to 4000' via heading, 240° to intercept and proceed via the BA LMM, 184° bearing or SBA, R 195° to Goleta Int. If not at 4000' at Goleta Int, climb to 4000' in the holding pattern on BA LMM, 184° bearing or SBA, R 195°, 1-minute right turns.
Canyon Int	Halibut Int	Direct LMM, 264° lead bearing	3500	
Goleta Int	Lobster Int	Direct	5000	
Lobster Int	Halibut Int	Direct LMM, 242° lead bearing	3500	
SBA VOR	Goleta Int	Direct	5000	
Channel Int	Goleta Int	Direct	5000	
Halibut Int	Naples FM/Int (NOPT)	Direct	2100	

Supplementary charting information: Tree, 154' at 34°24'54" N.; 119°50'20" W., Tree, 136' at 34°25'54" N.; 119°49'36" W., Control tower, 98'.

Procedure turn not authorized. Approach crs (profile) starts at Halibut Int.
Final approach crs, 073°.
Minimum altitude over Halibut Int, 3500'; over Naples FM/Int, 2100'.
MSA: 000°-090°—8000'; 090°-180°—3700'; 180°-270°—5300'; 270°-360°—7600'.
NOTE: VOR and ADF receivers required for execution of this procedure.
%IFR departure procedures: Northbound (260° through 080°) must comply with published Santa Barbara SID's.
#Air Carrier will not reduce takeoff visibility due to local conditions, Runways 15, 7.
CAUTION: High terrain N of crs.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	760	1	750	760	1	750	760	1½	750	900	2	890
A	1000-2.		T 2-eng. or less.—Runway 33 not authorized; Runway 7, RVR 50; Runway 15, 200-1; Runway 25, standard. %#				T over 2-eng.—Runway 33 not authorized; Runway 7, RVR 50; Runway 15, 200-1; Runway 25, standard. %#					

City, Santa Barbara; State, Calif.; Airport name, Municipal; Elev., 10'; Facility, BA; Procedure No. NDB(ADF) Runway 7, Amdt. 3; Eff. date, 12 Sept. 68; Sup. Amdt. No. ADF 1, Amdt. 2; Dated, 27 May 65

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.6 miles after passing LOM.
Wilmington VORTAC	LOM	Direct	1700	Climb to 1700' on crs, 343° from "IL" LOM within 15 miles or, when directed by ATC, make left turn to 270° climbing to 1700', intercept ILM VORTAC, R 237° and proceed to Swamp Int.
Swamp Int	LOM	Direct	1700	

Supplementary charting information: TDZ elevation, 30'.

Procedure turn W side of crs, 163° Outbnd, 343° Inbnd 1700' within 10 miles of LOM.
FAF, LOM. Final approach crs, 343°. Distance FAF to MAP, 4.6 miles.
Minimum altitude over LOM, 1500'.
MSA: 000°-090°—1500'; 090°-180°—1700'; 180°-270°—2300'; 270°-360°—2100'.

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-34	500	RVR 40	470	RVR 40	500	470	500	RVR 40	470	500	RVR 50	470
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	540	1	509	540	1	509	540	1½	509	580	2	549
A	Standard.		T 2-eng. or less—RVR 24 Runway 34; Standard all other runways.				T over 2-eng.—RVR 24, Runway 34; Standard all other runways.					

City, Wilmington; State, N.C.; Airport name, New Hanover County; Elev., 31′; Facility, IL; Procedure No. NDB(ADF) Runway 34, Amdt. 7; Eff. date, 12 Sept. 68; Sup. Amdt. No. 6; Dated, 6 Jan. 68

9. By amending § 97.29 of Subpart C to establish instrument landing system (ILS) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum Altitudes (feet)	MAP: ILS DH 363′ LOC 5.9 miles after passing BG LOM.
Bangor VORTAC	BG LOM	Direct	2300	Make left-climbing turn to 2300′ direct BG LOM and hold. Supplementary charting information: Hold SE of BG LOM, 1-minute left turns, 334° Inbnd., 327′ standpipe, 0.5 mile NE approach end Runway 33; 632′ antenna, 2.5 miles NE; 882′ antenna located 0.8 mile NE of LOM. TDZ elevation, 163′.

Procedure turn W. side of crs, 154° Outbnd, 334° Inbnd, 2300′ within 10 miles of BG LOM.
FAF, BG LOM. Final approach crs, 334°. Distance FAF to MAP, 5.9 miles.
Minimum glide slope interception altitude, 2000′. Glide slope altitude at OM, 1906′; at MM, 396′.
Distance to runway threshold at OM, 5.9 miles; at MM, 0.7 mile.
MSA: 000°–090°—2500′; 090°—180°—2500′; 180°–270°—2400′; 270°–360°—2800′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-33	363	½	200	363	½	200	363	½	200	363	½	200
LOC	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-33	500	½	337	500	½	337	500	½	337	500	¾	337
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	640	1	448	660	1	468	660	1½	468	940	2	748
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—standard.					

City, Bangor; State, Maine; Airport name, Bangor International Airport; Elev., 192′; Facility, I-BGR; Procedure No. ILS Runway 33, Amdt. 3; Eff. date, 12 Sept. 68; Sup. Amdt. No. ILS-33, Amdt. 2; Dated, 26 Nov. 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 260′. LOC 5.3 miles after passing Naples FM (OM).
GVO VOR	Canyon Int	Direct	5000	Climb to 650′ on runway heading, climbing right turn to 4000′ via heading, 240° to intercept and proceed via the SBA, R 195° to Goleta Int. If not at 4000′ at Goleta Int, climb to 4000′ in the holding pattern on SBA, R 195°, 1-minute right turns. Supplementary charting information: TDZ elevation, 10′. Tree, 154′ at 34°24′54″ N.; 119° 50′20″W., Tree, 136′ at 34°25′54″ N.; 119°49′36″ W., Control tower, 98′.
Canyon Int	Halibut Int	Direct	3500	
SBA VOR	Goleta Int	Direct	5000	
Goleta Int	Lobster Int	Direct	5000	
Lobster Int	Halibut Int	Direct	3500	
Halibut Int	Naples FM (NOPT) (OM)	Direct	1800	
Channel Int	Goleta Int	Direct	5000	

Procedure turn not authorized. Approach crs (profile) starts at Halibut Int.
Minimum altitude over Halibut Int, 3500′; over Naples FM (OM), 1780′.
FAF, Naples FM (OM). Final approach crs, 073°. Distance FAF to MAP, 5.3 miles.
Minimum glide slope interception altitude, 1800′. Glide slope altitude at OM, 1763′; at MM, 182′.
Distance to runway threshold at OM, 5.3 miles; at MM, 0.4 mile.
MSA: 000°–090°—8000′; 090°–180°—3700′; 180°–270°—5300′; 270°–360°—7600′.
% IFR departure procedures: Northbound (260° through 080°) must comply with published Santa Barbara SID's.
§Air Carrier will not reduce takeoff visibility due to local conditions runways 15, 7.

CAUTION: High terrain N of localizer crs.

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-7	260	1	250	260	1	250	260	1	250	260	1	250
LOC Minimums:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-7	420	1	410	420	1	410	420	1	410	420	1	410
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	720	1	710	720	1	710	720	1½	710	900	2	800
A	900-2		T 2-eng. or less—Runway 33 not authorized; Runway 7, RVR 50; Runway 15, 200-1; Runway 25, standard.%#				T over 2-eng.—Runway 33 not authorized; Runway 7, RVR 50; Runway 15, 200-1; Runway 25, standard.%#					

City, Santa Barbara; State, Calif.; Airport name, Municipal; Elev., 10'; Facility, I-SBA; Procedure No. ILS Runway 7, Amdt. 13; Eff. date, 12 Sept. 68; Sup. Amdt. No. ILS-7, Amdt. 12; Dated, 27 May 65

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH 230; LOC 4.6 miles after passing LOM.
Swamp Int	LOM	Direct	1700	Climb to 1700' on crs of 343° from LOM within 15 miles or, when directed by ATC, make left turn to 270° climbing to 1700', intercept ILM VORTAC, R 237° and proceed to Swamp Int.
Wilmington VORTAC	LOM	Direct	1700	Supplementary charting information: TDZ elevation, 30'.

Procedure turn W side of crs, 163° Outbnd, 343° Inbnd, 1700' within 10 miles of LOM.
FAF, LOM. Final approach crs, 343°. Distance FAF to MAP, 4.6 miles.
Minimum glide slope interception altitude, 1700'. Glide slope altitude at OM, 1410'; at MM, 242'.
Distance to runway threshold at OM, 4.6 miles; at MM, 0.6 mile.
MSA: 000°-090°—1500'; 090°-180°—1700'; 180°-270°—2300'; 270°-360°—2100'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-34	230	RVR 24	200	230	RVR 24	200	230	RVR 24	200	230	RVR 24	200
LOC	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-34	380	RVR 24	350	380	RVR 24	350	380	RVR 24	350	380	RVR 40	350
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	540	1	509	540	1	509	540	1½	509	580	2	549
A	Standard.		T 2-eng. or less—RVR 24, Runway 34; Standard all other runways.				T over 2-eng.—RVR 24, Runway 34; Standard all other runways.					

City, Wilmington; State, N.C.; Airport name, New Hanover County; Elev., 31'; Facility, I-ILM; Procedure No. ILS Runway 34, Amdt. 11; Eff. date, 12 Sept. 68; Sup. Amdt. No. 10; Dated, 6 Jan. 68

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), and 601 of the Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on August 7, 1968.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 68-9695; Filed, Aug. 22, 1968; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

PART 50—SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS

Fee Structure for Special Population Censuses

The following § 50.10 replaces § 50.10 which was published in the FEDERAL REGISTER on January 4, 1963 (28 F.R. 120), and in the Code of Federal Regulations, revised as of January 1, 1967 (15 CFR 50.10).

In accordance with the rule making provisions of Administrative Procedure 5 U.S.C. section 553, it has been found that notice and hearing on this schedule of fees and postponement of the effective date thereof is impracticable and unnecessary for the reason that such procedure, because of the nature of the rules, serves no useful purpose.

The fees are established under the provisions of Title 13, United States Code, section 8, authorizing the Department of Commerce to make special statistical surveys and studies, and to perform other specified services upon payment of the cost thereof. No transcript of any record will be furnished under authority of this act which would violate existing or future acts requiring that information furnished be held confidential.

This amended fee schedule is effective October 1, 1968: *Provided, however,* That work will be performed at the previous fee for cost estimates issued at the former rate before October 1, 1968, if accepted within 90 days after the date of the cost estimate letter.

§ 50.10 Fee structure for special population censuses.

(a) The Bureau of the Census is authorized to conduct special population censuses at the request of and at the expense of the community concerned. To obtain a special population census, an authorized official of the community should write a letter to the Director, Bureau of the Census, Washington, D.C. 20233, requesting detailed information and stating the approximate present population.

The Director will reply giving an estimate of the cost and other pertinent information.

(b) The fee for a special population census consists of two parts:

(1) Certain local expenses to be paid directly by the community for salary and travel (if necessary) of enumerators and crewleaders, who are hired locally and, unless otherwise furnished, for incidental expenses such as office space, telephone, and the like, and where applicable, for social security, State, and Federal taxes. This portion of the cost will be estimated individually for each requested census, but can be expected ordinarily to average less than 15 cents per person enumerated, depending on the size group.

(2) Expenses of the Bureau of the Census for preparation of enumerator assignment maps, salary, and travel expense of the supervisor or supervisors assigned by the Bureau, the cost of tabulation of results, and general office and administrative expenses. The fee structure for this portion of the cost is:

Population size group	*Fee*
For places under 500 populations	$305.
For places from:	
500 through 599	$350.
600 through 699	$390.
700 through 799	$425.
800 through 899	$445.
900 through 999	$460.
1,000 through 2,999	$460, plus $13 per 100 or fraction over 999.
3,000 through 4,999	$720, plus $10 per 100 or fraction over 2,999.
5,000 through 9,999	$920, plus $37 per 500 or fraction over 4,999.
10,000 through 49,999	$1,290, plus $55 per 1,000 or fraction over 9,999.
50,000 and over	(1).

[1] For communities of 50,000 population and over, and counties and States, regardless of size, an individual estimate will be prepared.

Dated: August 15, 1968.

ROBERT F. DRURY,
Acting Director,
Bureau of the Census.

[F.R. Doc. 68-10148; Filed, Aug. 22, 1968; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Witchweed

REGULATED AREAS

Correction

In F.R. Doc. 68-9855 appearing at page 11631 of the issue for Friday, August 16, 1968, make the following changes:

1. On page 11633, column 1, line 1, delete "Rufus P." and substitute "Hugh".

2. On page 11634, column 2, second paragraph from the bottom, delete line 9 and substitute "with Pike Creek, thence southeast along said".

3. On page 11639, column 2, third paragraph from the bottom, following line 4, insert "respect to the revision are impracticable".

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

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Expenses and Rate of Assessment

On August 8, 1968, notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 11298) regarding proposed expenses and the related rate of assessment for the period April 1, 1968, through March 31, 1969, pursuant to the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Washington Apricot Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 922.208 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Washington Apricot Marketing Committee during the period April 1, 1968, through March 31, 1969, will amount to $3,706.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 922.41, is fixed at $1.00 per ton of apricots.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of apricots grown in designated counties in Washington are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable apricots handled during the aforesaid period; and (3) such period began on April 1, 1968, and said rate of assessment will automatically apply to all such apricots beginning with such date.

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

Dated: August 20, 1968.

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

[F.R. Doc. 68-10168; Filed, Aug. 22, 1968; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1356]

PART 13—PROHIBITED TRADE PRACTICES

Nationwide Industries, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.85 *Government approval, action, connection or standards:* 13.85-35 Government indorsement. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1632 *Government indorsement or recommendation;* § 13.1762 *Tests, purported.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Nationwide Industries, Inc., et al., Philadelphia, Pa., Docket C-1356, July 9, 1968]

In the Matter of Nationwide Industries, Inc., Nu Research & Development Co., Dealers Service Specialty Corp. and Konalrad Products, Inc., Corporations, and James Romanow, Wilbur Baker, Albert J. Sowolsky (Also Known as Albert J. Scott) and David Sokoloff, Individually and as Officers of Said Corporations

Consent order requiring four affiliated marketers of automotive products to cease misrepresenting that their products have been independently tested or approved by any Federal agency, and that their guarantees are unconditional.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Nationwide Industries, Inc., Nu Research & Development Co., Dealers Service Specialty Corp. and Konalrad Products, Inc., corporations, and their officers, and James Romanow, Wilbur Baker, Albert J. Sowolsky (also known as Albert J. Scott), and David Sokoloff, individually and as officers of said corporations and respondents' agents, representatives and employees, directly or through any corporate or other device, in conection with the offering for sale, sale or distribution of chemical sealers for automatic transmissions, automobile engines and power

steering mechanisms, chemical carburetor cleaners and engine tuneups, motor oil and gasoline additives, other chemical automotive products or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, through the use or display of any words, emblem, seal, symbol, certification, or otherwise, that merchandise has been tested, approved or endorsed by the American Institute of Science or by any other organization: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish (a) that such testing organization is a bona fide scientific testing laboratory fully competent to test respondents' products, and (b) that such testing organization, by valid scientific methods, has in fact performed tests substantiating the accuracy of the representations made by respondents.

2. Representing, directly or by implication, that their products have been certified, approved or in any way endorsed by any agency or other branch of the U.S. Government.

3. Representing, directly or by implication, that their products are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; or from failing promptly to perform all of their obligations under the represented and expressed terms of the guarantee.

4. Misrepresenting, in any manner, the testing or endorsement of their products or their product guarantees.

5. Furnishing or otherwise placing in the hands of others any means or instrumentality by and through which they may mislead or deceive the public in the manner or as to the things prohibited by this order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the respondents herein shall, within 60 days after service upon them of this order, file with the Commsision a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: July 9, 1968.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 68-10153; Filed, Aug. 22, 1968; 8:45 a.m.]

[Docket No. C-1355]

PART 13—PROHIBITED TRADE PRACTICES

Roy Gilley Doing Business as Flowercraft Supply Co.

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Roy Gilley doing business as Flowercraft Supply Co., Seattle, Wash., Docket C-1355, July 9, 1968]

In the Matter of Roy Gilley, an Individual Doing Business as Flowercraft Supply Co.

Consent order requiring a Seattle, Wash., distributor of handicraft materials to cease marketing any fabric not conforming to flammability standards of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith is as follows:

It is ordered, That respondent Roy Gilley, an individual doing business as Flowercraft Supply Co., or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any fabric as "commerce" and "fabric" are defined in the Flammable Fabrics Act, as amended, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondent herein shall, within 10 days after service upon him of this order, file with the Commission an interim special report in writing setting forth the respondent's intention as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the fabric which gave rise to the complaint, (1) the amount of such fabric in inventory, (2) any action taken to notify customers of the flammability of such fabric and the results thereof, and (3) any disposition of such fabric since February 23, 1968. Such report shall further inform the Commission whether respondent has in inventory any fabric, product or related material having a plain surface and made of silk, rayon or cotton or combinations thereof in a weight of two ounces or less per square yard or fabric with a raised fiber surface made of cotton or rayon or combinations thereof. Respondent will submit samples of any fabric, product or related material with this report. Samples of the fabric, product or related material shall be no less than one square yard of material.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form of his compliance with this order.

Issued: July 9, 1968.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 68-10154; Filed, Aug. 22, 1968; 8:45 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Disclosure of Foreign Assembly Not Required for Product Made of Domestic Components

§ 15.276 Disclosure of foreign assembly not required for product made of domestic components.

(a) The Commission advised a requesting party that in the absence of facts indicating actual deception disclosure of the foreign assembly of a product made of domestic components would not be required.

(b) The domestic components accounted for approximately 90 percent of the manufacturing cost of the finished product; foreign assembly accounted for approximately 10 percent of the cost of the finished product.

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: August 22, 1968.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 68-10161; Filed, Aug. 22, 1968; 8:46 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Formation of Consumers Savings Group

§ 15.277 Formation of consumers savings group.

(a) The Commission was requested to render an advisory opinion as to the legality of a proposed method of organizing and operating a consumers savings group.

(b) Under the facts as presented, certain select merchants in a town would agree to give designated cash savings to the members of the group upon the purchase of merchandise for cash, which would be a percentage of the purchase price. This savings would not be paid directly to the consumer at the time of purchase, but would be remitted to the group and held in reserve to be disbursed on a cyclical basis. The group would retain no portion of the member's savings, but would earn its profits solely from the fee charged for the consumer's membership in the group and from interest earned on the funds while they were being held for the consumers.

(c) The Commission advised that it could see no objection to the operation of the group in the manner stated provided the purchase prices to be charged the consumer on which his percentage savings were to be computed were in fact the retailers' own former prices for the articles sold within the meaning of Guide I of the Guides Against Deceptive Pricing. In the Commission's view, the entire proposal was based on an assurance to consumers that they would save a stated percentage of the purchase prices actually paid and that those prices would be the regular prices customarily charged by the retailers or the prices at which the articles were openly and actively

offered for sale in good faith for a reasonably substantial period of time in the recent, regular course of business.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: August 22, 1968.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 68–10162; Filed, Aug. 22, 1968; 8:46 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Commission Approves Proposed Franchise Agreement for Chain of Pizza and Sandwich Restaurant-Carryout Shops

§ 15.278 Commission approves proposed franchise agreement for chain of pizza and sandwich restaurant-carryout shops.

The Commission issued an advisory opinion approving a proposed franchise agreement between a trademark-trade name owner and individual operators of pizza and sandwich restaurant-carryout shops. Some of the important provisions of the agreement are the following:

(a) Either the licensee or the licensor may submit to arbitration any questions concerning agreement termination rights and obligations, including return to the the licensee of all or any portion of the initial fee.

(b) Licensor must make available for sale to licensee the foods, paper products and supplies necessary for conducting the business but licensee is not required to purchase them from licensor.

(c) Licensor will prepare and place advertising directed to ultimate consumers in the general area of licensee's shop; licensee will provide the funds for such advertising; licensor will give licensee a quarterly accounting of the use of such funds.

(d) Licensor may direct information other than price to go into signs and advertising.

(e) The food sold and service provided must meet standards of quality set by licensor.

(f) Licensee is not to operate a similar business for 2 years after termination of the agreement within 2 miles of his former shop.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: August 22, 1968.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 68–10163; Filed, Aug. 22, 1968; 8:46 a.m.]

PART 153—BEAUTY AND BARBER EQUIPMENT AND SUPPLIES INDUSTRY

PART 248—GUIDES FOR THE BEAUTY AND BARBER EQUIPMENT AND SUPPLIES INDUSTRY

Statement by the Commission: Proceedings to establish these guides were instituted pursuant to industry applications. The guides for the industry were published by the Commission in the form of proposed revised trade practice rules. The proposed rules were made available to all industry members and other interested parties upon public notice whereby they were afforded opportunity to present to the Commission their views, suggestions, or objections or other information concerning the rules. Pursuant to such notice public hearings were held in the spring of 1967 in San Francisco, Calif.; New York City, N.Y.; and Atlanta, Ga. After full consideration of all comments received concerning the proposed rules, the Commission adopted the guides in their present form.

The guides are intended to encourge voluntary compliance with the law by those whose practices are subject to the jurisdiction of the Commission and are published in the belief that the businessman who is fully informed of the legal pitfalls he may encounter can conduct his affairs so as to avoid such difficulties. It is the Commission's further belief that the more knowledge businessmen have respecting the laws it administers, the more likelihood there is that they will conduct their business in accordance therewith.

While the guides are interpretive of laws administered by the Commission and thus are advisory in nature, proceedings to enforce the requirements of law as explained in the guides may be brought under the Federal Trade Commission Act (15 U.S.C. sec. 41–58) and the Clayton Act as amended by the Robinson-Patman Act (15 U.S.C. sec. 13). Briefly stated, the Federal Trade Commission Act makes it illegal for one to engage in "unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce." The applicable provisions of the amended Clayton Act are referred to, where appropriate, in the guides.

The guides were published on August 23, 1968, and become effective October 25, 1968. They supersede the trade practice rules for the Beauty and Barber Equipment and Supplies Industry as promulgated August 9, 1941.

Inquiries and requests for the guides should be directed to the Bureau of Industry Guidance, Federal Trade Commission, Washington, D.C. 20580.

Sec.

AUTHORITY: The provisions of this Part 248 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46; 49 Stat. 1526; 15 U.S.C. 13, as amended.

§ 248.0 Definitions.

As used in this part the terms "industry products," "industry member," "beauty salon," "beauty school," "beauty clinic," "cosmetology," "hairdressing," "barber shop," and "barber school" shall have the following meanings, respectively:

(a) *Industry products.* Items used by or marketed through barber shops, barber schools, beauty parlors, beauty salons, beauty schools and beauty clinics. (Such products embrace a wide range of beauty and barber preparations; also the many articles or items of equipment, furnishings and supplies for such aforementioned establishments.)

(b) *Industry member.* Any person, firm, corporation, organization, barber shop, beauty salon, beauty school, beauty clinic or similar establishment engaged in the manufacture, distribution, or sale (including utilization in connection with services) of industry products.

(c) *Beauty salon.* An establishment providing cosmetology and hairdressing services to the public.

(d) *Beauty school.* An institution established to render instruction in cosmetology and hairdressing.

(e) *Beauty clinic.* The segment of a beauty school furnishing the students with practical experience in hairdressing and cosmetology.

(f) *Cosmetology.* Art or practice of treating, protecting, cleaning or beautifying the skin, hair or nails of human beings, and the art or practice of treating, protecting or beautifying synthetic hair, wigs, or hair pieces to be worn by human beings.

(g) *Hairdressing.* Art or practice of treating, grooming, protecting, cleaning, beautifying or styling of hair of human beings.

(h) *Barber shop.* An establishment which provides tonsorial services.

(i) *Barber school.* An institution established to render instruction in the art of tonsorial services.

§ 248.1 Misrepresentation in general.

An industry member should not use, or cause or promote the use of, any statement, representation, guarantee,[1] testimonial, or endorsement, by way of advertising (through newspapers, magazines, circulars, booklets, or by radio, television or any other medium), oral representation, or otherwise, which has the capacity and tendency or effect of misleading or deceiving purchasers,

[1] The Commission has adopted Guides Against Deceptive Advertising of Guarantees. See 16 CFR Part 239 for the Guides Against Deceptive Advertising of Guarantees for additional guidance with respect to guarantee and warranty representations.

prospective purchasers, or the consuming public including customers receiving cosmetology, hairdressing, or tonsorial services—

(a) With respect to efficacy, permanency of the effects, medicinal or curative properties, grade, quality, quantity, substance, character, origin, size, preparation, manufacture, or distribution of any product of the industry; or

(b) Concerning the purported approval or endorsement of such product by State, Federal, medical or other authority, or

(c) In any other material respect.

NOTE: Among the provisions of this section is "false advertisement," as defined in section 15 of the Federal Trade Commission Act, of any "cosmetic" as such term is defined in the same section. Furthermore, nothing in this Part 248 is to be construed as relieving anyone of the necessity of complying with the cosmetic labeling requirements of the "Federal Food, Drug and Cosmetic Act" and the general regulations thereunder.

[Guide 1]

§ 248.2 Misrepresentation as to character of business.

An industry member should not misrepresent, directly, or indirectly, through the use of any word or term in his corporate or trade name, in his advertising, or otherwise:

(a) That he is a producer, manufacturer, wholesaler, distributor, importer, or retailer of industry products; or

(b) The character, including the nature, purpose or function, of his business or the type of services he offers.

Example: An industry member advertises his place of business as a beauty salon when in fact it is a clinic operated by a beauty school, thereby deceiving the public as to the true character of his establishment. In order to avoid such deception the industry member should clearly and conspicuously disclose that his establishment is a beauty school.

[Guide 2]

§ 248.3 Deceptive plaques and certificates.

In the course of or in connection with the distribution, promotion, or sale (including utilization in connection with services) of any industry product, an industry member should not display or place in the hands of others any plaque, emblem, seal, insignia, testimonial, or certificate which is false, misleading, or deceptive as to an industry member's professional proficiency or competence or as to his membership in any guild or industry association.

Example 1. A distributor of industry products awards a certificate to a beauty salon owner indicating that the recipient has attained a high degree of professional skill through some unusual or extended training, when in fact the award was not granted on the basis of professional competency but was given merely as an inducement to buy the products of such distributor.

Example 2. An industry member displays in his salon a seal which indicates he is a member of a guild when in fact he is not such a member.

[Guide 3]

§ 248.4 Deceptive pricing.

Members of the industry should not represent directly or indirectly in advertising or otherwise that an industry product may be purchased for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise deceive purchasers or prospective purchasers with respect to the price of any product offered for sale; or furnish any means or instrumentality by which others engaged in the sale of industry products may make any such representation.

NOTE: The Commission's Guides Against Deceptive Pricing furnish additional guidance respecting price savings representations and are to be considered as supplementing this section. See 16 CFR Part 233 for the Guides Against Deceptive Pricing for additional guidance with respect to price savings representations.

[Guide 4]

§ 248.5 Deceptive use and imitation of trade or corporate names, trademarks, etc.

An industry member should not use any trade name, corporate name, trademark, or other trade designation, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the character, name, nature, or origin of any product of the industry, or of any material used therein, or which is false or misleading in any other material respect. (See also § 248.2.)

[Guide 5]

§ 248.6 False invoicing.

An industry member should not withhold from, or insert in, invoices or sales slips, any statements, or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices or sales slips, with the capacity and tendency or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public in any material respect.

[Guide 6]

§ 248.7 Defamation of competitors or false disparagement of their products.

An industry member should not engage in (a) the defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or (b) the false disparagement of the quality, grade, origin, use, design, performance, properties, manufacture, or distribution of the products of competitors or of their business methods, selling prices, values, credit terms, policies or services.

[Guide 7]

§ 248.8 Push money.

An industry member should not pay or contract to pay anything of value to a salesperson employed by a customer of the industry member, as compensation for, or as an inducement to obtain, special or greater effort or service on the part of the salesperson in promoting the resale, including use in connection with services, of products supplied by the industry member to the customer—

(a) When the agreement or understanding under which the payment or payments are made or are to be made is without the knowledge and consent of the salesperson's employer; or

(b) When the terms and conditions of the agreement or understanding are such that any benefit to the salesperson or customer is dependent on lottery; or

(c) When any provision of the agreement or understanding requires or contemplates practices or a course of conduct unduly and intentionally hampering sales of products of competitors of an industry member; or

(d) When, because of the terms and conditions of the understanding or agreement, including its duration, or the attendant circumstances, the effect may be to substantially lessen competition or tend to create a monopoly; or

(e) When similar payments are not accorded to salespersons of competing customers on proportionally equal terms in compliance with sections 2 (d) and (e) of the Clayton Act. (See § 248.14.)

NOTE: Payments made by an industry member to a salesperson of a customer under any agreement or understanding that all or any part of such payments is to be transferred by the salesperson to the customer, or is to result in a corresponding decrease in the salesperson's salary, are not to be considered within the purview of this § 248.8; but are to be considered as subject to the requirements and provisions of section 2(a) of the Clayton Act. (See § 248.13.)

[Guide 8]

§ 248.9 Enticing away employees of competitors.

An industry member should not willfully entice away employees or sales-contract personnel of competitors with the intent and effect of thereby hampering or injuring competitors in their business or destroying or substantially lessening competition; *Provided*, That nothing in this section shall be construed as precluding such persons from seeking more favorable employment, or as precluding employers from hiring or offering employment to employees of a competitor in good faith and not for the purpose of inflicting competitive injury.

[Guide 9]

§ 248.10 Inducing breach of contract.

(a) An industry member should not knowingly induce or attempt to induce the breach of existing lawful contracts between competitors and their customers or between competitors and their suppliers, or interfere with or obstruct the performance of any such contractual duties or services, under any circumstance having the capacity and tendency or effect of substantially injuring or lessening competition.

(b) Nothing in this section is intended to imply that it is improper for an industry member to solicit the business of

a customer of a competing industry member; nor is the section to be construed as in anywise authorizing any agreement, understanding, or planned common course of action by two or more industry members not to solicit business from, or to sell to, the customers of either of them, or customers of any other industry member.

[Guide 10]

§ 248.11 Exclusive deals.

An industry member should not contract to sell or sell any industry product, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the purchaser thereof shall not use or deal in the products of a competitor or competitors of such industry member, where the effect of such sale or contract for sale, or of such condition, agreement, or understanding, may be substantially to lessen competition or tend to create a monopoly in any line of commerce.

[Guide 11]

§ 248.12 Commercial bribery.

An industry member shall not directly or indirectly give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors.

[Guide 12]

§ 248.13 Discriminatory prices, rebates, discounts, etc.

(a) An industry member engaged in commerce, should not in the course of such commerce, grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however,*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and are not purchased by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, as supplies for their own use;

NOTE 1: This section does not apply to purchases by the U.S. Government for its own use.

(2) That nothing contained in this section shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which industry products are sold or delivered to different purchasers;

NOTE 2: Cost justification under the above proviso (2) depends upon net savings in cost based on all facts relevant to the transactions under the terms of such proviso. For example, if a seller regularly grants a discount based upon the purchase of a specified quantity by a single order for a single delivery, and this discount is justified by cost differences, it does not follow that the same discount can be cost justified if granted to a purchaser of the same quantity by multiple orders or for multiple deliveries.

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in this section shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor.

NOTE 3: Subsection 2(b) of the Clayton Act, as amended, reads as follows: "Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

NOTE 4: In complaint proceedings, justification of price differentials under subparagraphs (2), (4), and (5) of this paragraph (a) is a matter of affirmative defense to be established by the person or concern charged with price discrimination.

NOTE 5: Nothing in this section should be construed as precluding charging customers at a higher level of distribution lower prices than those charged to customers at a lower level of distribution provided that such price differential is not otherwise precluded by the aforegoing provisions of this section. For example, a seller may grant a lower price to wholesalers than to retailers to the extent that such wholesalers resell to retailers. If such wholesalers also sell at retail they may not properly be granted a price lower than the prices granted to competing retailers on that portion of the goods they sell at retail.

(b) The following are examples of price differential practices to be considered as subject to the provisions of this section when involving goods of like grade and quality which are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and which are not purchased by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, as supplies for their own use, and when—

(1) The commerce requirements specified in this section are present; and

(2) The price differential has a reasonable probability of substantially lessening competition or tending to create a monopoly in any line of commerce, or of injuring, destroying, or preventing competition with the industry member or with the customer receiving the benefit of the price differential, or with customers of either of them; and

(3) The price differential is not justified by cost savings (see paragraph (a) (2) of this section); and

(4) The price differential is not made in response to changing conditions affecting the market for or the marketability of the goods concerned (see paragraph (a) (4) of this section); and

(5) The lower price was not made to meet in good faith an equally low price of a competitor (see paragraph (a) (5) of this section).

Example 1. An industry member sells supplies to one or more of his beauty school customers at a lower price than he sells to one or more of his wholesale customers who resell to a competitor or competitors of the favored beauty school or schools. The probable injury to competition resulting from such practice may occur in the resale of the supplies with or without services being furnished in connection therewith.

NOTE 6: Example 1 should not be construed as admonishing an industry member not to grant to his beauty school customers a favorable price on supplies and/or equipment for use in preclinical training. However, the industry member should assure himself that the materials are to be used for the purpose intended and not diverted for use in a salon or clinic.

Example 2. An industry member invoices goods to all his customers at the same price but supplies additional quantities of such goods at no extra charge to one or more, but not to all, such customers; or supplies other goods or premiums to one or more, but not to all, such customers for which he makes no extra charge and which effects an actual price difference in favor of certain of his customers.

NOTE 7: Section 248.13 is interpretive of sections 2(a) and 2(b) of the amended Clayton Act.

[Guide 13]

§ 248.14 Advertising or promotional allowances, or services or facilities.

(a) An industry member engaged in commerce should not pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such

commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of any products or commodities manufactured, sold or offered for sale by such member, unless such payment or consideration is made known to and is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(b) An industry member engaged in commerce should not discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale or distribution, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

NOTE 1: Subsection 2(b) of the Clayton Act, as amended, which is set forth in Note 3 in § 248.13 is applicable to this § 248.14.

(c) The following is an example of discrimination in furnishing advertising or promotional allowances or services or facilities to be considered as subject to the provisions of this section when involving goods of like grade and quality and when the industry member is engaged in commerce and the promotional allowance, or service, or facility, is paid or furnished in the course of such commerce.

Example. The furnishing by an industry member to a beauty salon of any promotional allowance, or service, or facility without making available on proportionally equal terms such assistance to all beauty salons and others who compete with the favored salon in the resale of the member's products with or without services.

NOTE 2: Proportionally equal terms means that the assistance is proportionalized on some basis which is fair to all who compete in the resale of the industry member's products. No single way to proportionalize is prescribed by law and any method that treats all who compete in the resale of the member's products on proportionally equal terms may be used.

NOTE 3: When an industry member furnishes any promotional allowance, service, or facility to any direct-buying salon he must also make such assistance available on proportionally equal terms to all salons and others who buy the member's products directly or through intermediaries and who compete with the direct-buying salon in the resale, with or without services, of the industry member's products at the same functional level of distribution. The industry member may make such assistance available directly to the competing salons and others who buy through intermediaries. He may also utilize his intermediaries to administer the promotional program, so long as he takes responsibility for seeing that the assistance is offered and otherwise made available to all salons and others who compete in the resale of the member's products with or without services.

NOTE 4: § 248.14 is interpretive of sections 2(d) and 2(e) of the amended Clayton Act.

[Guide 14]

§ 248.15 Inducing or receiving an illegal discrimination in price, advertising or promotional allowances, or services or facilities.

(a) An industry member engaged in commerce, should not in the course of such commerce, knowingly induce or receive a discrimination in price, advertising or promotional allowances, or services or facilities, which is improper under the foregoing provisions of §§ 248.13 and 248.14.

(b) The following are examples of inducing or receiving discriminations in price, advertising or promotional allowances or services or facilities, to be considered as subject to this section when the requisites of an improper discrimination on the part of the seller as set forth in §§ 248.13 and 248.14 are present and the party receiving the discriminations knows or should know that the discriminations are illegal.

Example 1. An industry member purchases industry supplies purportedly for resale to beauty salons, and is charged a lower price than the seller charges other customers for industry supplies which they resell in beauty salons, with or without services; but the member who obtained the supplies at the lower price transfers them to a salon which he owns, and resells the supplies therein with or without services, thereby receiving a discrimination in price which is subject to the provisions of § 248.13.

Example 2. An industry member induces suppliers to contribute sums of money to defray some or all of the costs of advertising sponsored by such member and designed to promote the sale, with or without services, of the suppliers' products in the industry member's place of business, when the industry member knows or should know that the allowances for such purpose are not made available on proportionally equal terms by the same suppliers to other customers competing with the favored member, thereby receiving a discrimination in promotional allowances subject to the provisions of § 248.14.

NOTE: § 248.15 is interpretive of section 2(f) of the amended Clayton Act and of section 5 of the Federal Trade Commission Act, as amended.

[Guide 15]

Issued: August 22, 1968.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 68-10164; Filed, Aug. 22, 1968; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Rel. Nos. 33-4920, 34-8386, 35-16139, 39-251, IC-5472, IA-226]

PART 201—RULES OF PRACTICE

Filing of Briefs

The Commission has amended paragraph (d) of Rule 22 of its rules of practice (17 CFR 201.22(d)) in order to clarify the meaning thereof. The Rule heretofore contained a reference in the first sentence to briefs "filed pursuant to paragraph (c) of this rule * * *" whereas said paragraph (c) relates to the number of copies of all papers required to be filed. The amendment to the Rule makes it clear that the requirements thereunder apply to all briefs filed with the Commission or with a hearing officer.

Commission action. In the first sentence of paragraph (d) of § 201.22 of Chapter II of Title 17 of the Code of Federal Regulations, the comma following the word "brief" is deleted, and the language thereafter which reads: "including briefs filed pursuant to paragraph (c) of this section, * * *" is amended to read: "filed with the Commission or with a hearing officer * * *". As so amended paragraph (d) of § 201.22 reads as follows:

§ 201.22 Filing; formalities; computation of time.

* * * * *

(d) Length and form of briefs. All briefs filed with the Commission or with a hearing officer containing more than 10 pages shall include an index and table of cases. The date of each brief must appear on its front cover or title page. No brief shall exceed 60 pages in length, except with the permission of the Commission.

* * * * *

Statutory authority. The foregoing action is taken pursuant to section 19(a) of the Securities Act of 1933, section 23(a) of the Securities Exchange Act of 1934, section 20(a) of the Public Utility Holding Company Act of 1935, section 319(a) of the Trust Indenture Act of 1939, section 38(a) of the Investment Company Act of 1940 and section 211(a) of the Investment Advisers Act of 1940.

Effective Date. Since the foregoing amendment involves rules of practice or procedure and not substantive rules, the Commission finds that compliance with the procedures specified in 5 U.S.C. 553 is unnecessary. Accordingly, the foregoing amendment shall become effective forthwith.

(Secs. 19, 23, 48 Stat. 85 as amended, 901 as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 888; 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

AUGUST 19, 1968.

[F.R. Doc. 68-10186; Filed, Aug. 22, 1968; 8:48 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 68-203]

PART 22—DRAWBACK

Processing of Drawback Entries

On February 28, 1968, there was published in the FEDERAL REGISTER (33 F.R.

3431) a notice of proposed rulemaking setting forth various proposed amendments to the Customs Regulations relating to the processing of drawback entries.

After consideration of all representations received in response to the notice, the proposed amendments have been adopted with certain modifications. Further, § 22.30(b), Customs Regulations, is being amended to apply the new procedures to drawback on articles exported from continuous customs custody and to drawback on rejected merchandise.

Accordingly, the Customs Regulations are amended as follows:

§ 22.6 [Amended]

Section 22.6(f)(22) is deleted.

§ 22.14 [Deleted]

Section 22.14 is deleted.

Section 22.20 is amended to read as follows:

§ 22.20 Liquidation of drawback entries.

(a) Proper drawback claims may be liquidated (1) after the deposit of estimated duties on the imported merchandise and before liquidation of the import entry or (2) after liquidation of the import entry becomes final.

(b) Payment of drawback may be based on estimated duties if the import entry has not yet been liquidated and the drawback claimant and the party responsible for the payment of liquidated import duties (if different from the claimant) each files a written request relating to each drawback entry requesting payment on this basis and waiving any right to payment or refund except in accordance with the provisions of this section. A drawback entry, once liquidated on the basis of estimated duties shall not thereafter be adjusted by reason of the subsequent liquidation of an import entry. However, if final liquidation of the import entry discloses that the total amount of import duty is different from the total estimated duties deposited, the party responsible for the payment of liquidated duties (1) shall be liable for 1 percent of all increased duties found to be due on that portion of the merchandise transferred to the drawback entry or (2) shall be entitled to a refund of 1 percent of all excess duties found to have been paid on that portion of the merchandise transferred to the drawback entry.

(c) After the import entry has been liquidated, the liquidated duties have been paid, and such liquidation has been made final by operation of law or by acceptance of the liquidation in writing by the importer, payment of drawback shall be based on the final liquidated duties paid.

(d) When the drawback claim has been completed by the filing of the entry, notices of exportation, and other documents required by the regulations in this part, the landing certificate has been produced where required, and clearance of the exporting conveyance has been established by the record of clearance in the case of direct exportation or by certificate in the case of exportation at another port, the regional commissioner shall ascertain the drawback due by reference to the records of importation and the drawback rate under which the drawback claimed is allowable.

(e) The values to be used in computing the distribution of drawback where two or more products result from the manipulation of the imported merchandise, pursuant to section 313(a), Tariff Act of 1930,[3] shall be market values unless the special regulations under which drawback is claimed provide otherwise.

(f) The amount of drawback due having been ascertained, the regional commissioner shall certify such amount for payment to the person making the entry or to the person to whom the maker on the face of the entry directs that such payment be made.

Section 22.30(b) is amended to read as follows:

§ 22.30 Ascertainment of drawback.

* * * * *

(b) Liquidation of the drawback claim shall proceed as provided in § 22.20 (a), (b), and (c) of this chapter.

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

§ 22.32 [Amended]

Section 22.32(b) is amended by deleting the final two sentences thereof.

(Secs. 313, 624, 46 Stat. 693, as amended, 759; 19 U.S.C. 1313, 1624)

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

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: August 16, 1968.

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

[F.R. Doc. 68-10178; Filed, Aug. 22, 1968; 8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Prescription-Drug Advertisements

Correction

In F.R. Doc. 68-7616 appearing at page 9393 in the issue of Thursday, June 27, 1968, the seventh line of § 1.105(e)(6)(xxi)(*b*) should read: "square inches, or more than four pages of a periodical of 50 square inches or smaller page size, the".

SUBCHAPTER C—DRUGS

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Microbiological Assays: Laboratory Equipment, Solutions, Culture Media, Etc.

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357), and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the following new sections dealing with laboratory equipment, solutions, culture media, test organisms, microbiological agar diffusion assay, and microbiological turbidimetric assay are added to Part 141:

§ 141.101 Laboratory equipment.

Equipment should be selected which is adequate for its intended use and should be thoroughly cleansed after each use to remove any antibiotic residues. The equipment should be kept covered when not in use. Clean glassware intended for holding and transferring the test organisms should be sterilized in a hot air oven at 200–220° C for 2 hours. Volumetric flasks, pipettes, or accurately calibrated diluting devices should be used when diluting standard and sample solutions.

(a) *Microbiological agar diffusion assay*—(1) *Cylinders.* Use stainless steel cylinders with an outside diameter of 8 millimeters (±0.1 millimeter), an inside diameter of 6 millimeters (±0.1 millimeter), and a length of 10 millimeters (±0.1 millimeter).

(2) *Plates.* Plastic or glass Petri dishes may be used, having dimensions of 20 by 100 millimeters. Covers should be of porcelain, glazed on the outside. These covers should be washed frequently enough to keep them clean, heated in a muffle furnace, and cooled before use.

(b) *Microbiological turbidimetric assay*—(1) *Tubes.* Glass tubes, 16 by 125 millimeters, should be used. These may be of a disposable type. If reusable tubes are employed, care must be taken to remove not only all antibiotic reisdues from the previous test but also all traces of cleaning solution.

(2) *Colorimeter.* Use a suitable photoelectric colorimeter at a wavelength of 530 millimicrons. Set the instrument at zero absorbance with clear, uninoculated broth prepared as described in the applicable method for the antibiotic being assayed.

§ 141.102 Solutions.

(a) Antibiotic assay solutions are prepared as follows (solution numbers 1, 2, 3, 4, and 6 correspond to those used in "Assay Methods of Antibiotics," D. C.

Grove and W. A. Randall, Medical Encyclopedia, Inc., New York, N.Y. (1955) p. 222):

(1) *Solution 1 (1 percent potassium phosphate buffer, pH 6.0).*

Dibasic potassium phosphate: 2.0 gm.
Monobasic potassium phosphate: 8.0 gm.
Distilled water, q.s: 1,000.0 ml.

Standardize with 18*N* phosphoric acid or 10*N* potassium hydroxide to yield a pH 5.95 to 6.05 after sterilization.

(2) *Solution 2 (citrate buffer solution, pH 6.3).*

Citric acid: 13.2 gm.
Sodium hydroxide: 7.06 gm.
Sodium citrate: 97.0 gm.
Distilled water, q.s: 1,000.0 ml.

Standardize with 10 percent citric acid solution or 10*N* sodium hydroxide to yield pH 6.2 to 6.4 after sterilization.

(3) *Solution 3 (0.1M potassium phosphate buffer, pH 8.0).*

Dibasic potassium phosphate: 16.73 gm.
Monobasic potassium phosphate: 0.523 gm.
Distilled water, q.s: 1,000.0 ml.

Standardize with 18*N* phosphoric acid or 10*N* potassium hydroxide to yield a pH 7.9 to 8.1 after sterilization.

(4) *Solution 4 (0.1M potassium phosphate buffer, pH 4.5).*

Monobasic potassium phosphate: 13.6 gm.
Distilled water, q.s: 1,000.0 ml.

Standardize with 18*N* phosphoric acid or 10*N* potassium hydroxide to yield a pH 4.45 to 4.55 after sterilization.

(5) [Reserved]

(6) *Solution 6 (10 percent potassium phospate buffer, pH 6.0).*

Dibasic potassium phosphate: 20.0 gm.
Monobasic potassium phosphate: 80.0 gm.
Distilled water, q.s: 1,000.0 ml.

Standardize with 18*N* phosphoric acid or 10*N* potassium hydroxide to yield a pH 5.95 to 6.05 after sterilization.

(7) through (9) [Reserved]

(10) *Solution 10 (0.2M potassium phosphate buffer, pH 10.5).*

Dibasic potassium phosphate: 35.0 gm.
10*N* sodium hydroxide: 2.0 ml.
Distilled water, q.s: 1,000.0 ml.

Standardize with 18*N* phosphoric acid or 10*N* potassium hydroxide to yield a pH 10.4 to 10.6 after sterilization.

(11) *Solution 11 (10 percent potassium phosphate buffer, pH 2.5).*

Monobasic potassium phosphate: 100.0 gm.
Concentrated hydrochloric acid: 0.2 ml. (approximately).
Distilled water, q.s: 1,000.0 ml.

Standardize with 18*N* phosphoric acid or 10*N* potassium hydroxide to yield a pH 2.0 to 2.8 after sterilization.

(12) *Solution 12 (10 percent potassium phosphate buffer, pH 7.0).*

Monobasic potassium phosphate: 100.0 gm.
Distilled water, q.s: 1,000.0 ml.

Standardize with 18*N* phosphoric acid or 10*N* potassium hydroxide to yield a pH 6.95 to 7.05 after sterilization.

(13) *Solution 13 (0.01N methanolic hydrochloric acid).*

1.0N hydrochloric acid: 10.0 ml.
Methyl alcohol, q.s: 1,000.0 ml.

(14) *Solution 14 (2 percent sodium bicarbonate solution).*

Sodium bicarbonate: 20.0 gm.
Distilled water, q.s: 1,000.0 ml.

Prepare daily.

(15) *Solution 15 (80 percent isopropyl alcohol solution).*

Isopropyl alcohol: 800.0 ml.
Distilled water, q.s: 1,000.0 ml.

§ 141.103 Culture media.

(a) *Ingredients.* Use ingredients that conform to the standards, if any, prescribed by the U.S.P. or N.F. In lieu of preparing the media from the individual ingredients specified, they may be made from dehydrated mixtures that, when reconstituted with distilled water, have the same composition as such media. Minor modifications of the individual ingredients specified in this section are permissible if the resulting media possess growth-promoting properties at least equal to the media described.

(b) *Description of media.* Medium numbers 1, 2, 3, 4, 5, 8, 9, 10, 11, and 13 correspond to those used in "Assay Methods of Antibiotics," D. C. Grove and W. A. Randall, Medical Encyclopedia, Inc., New York, N.Y. (1955) p. 220. Medium numbers 18 through 21 correspond to those used in "Outline of Details for Official Microbiological Assays of Antibiotics," A. Kirshbaum and B. Arret, "Journal of Pharmaceutical Sciences," vol. 56, No. 4, April 1967, p. 512.

(1) *Medium 1.*

Peptone: 6.0 gm.
Pancreatic digest of casein: 4.0 gm.
Yeast extract: 3.0 gm.
Beef extract: 1.5 gm.
Dextrose: 1.0 gm.
Agar: 15.0 gm.
Distilled water, q.s: 1,000.0 ml.
pH 6.5 to 6.6 after sterilization.

(2) *Medium 2.*

Peptone: 6.0 gm.
Yeast extract: 3.0 gm.
Beef extract: 1.5 gm.
Agar: 15.0 gm.
Distilled water, q.s.: 1,000.0 ml.
pH 6.5 to 6.6 after sterilization.

(3) *Medium 3.*

Peptone: 5.0 gm.
Yeast extract: 1.5 gm.
Beef extract: 1.5 gm.
Sodium chloride: 3.5 gm.
Dextrose: 1.0 gm.
Dipotassium phosphate: 3.68 gm.
Potassium dihydrogen phosphate: 1.32 gm.
Distilled water, q.s.: 1,000.0 ml.
pH 6.95 to 7.05 after sterilization.

(4) *Medium 4.*

Peptone: 6.0 gm.
Yeast extract: 3.0 gm.
Beef extract: 1.5 gm.
Dextrose: 1.0 gm.
Agar: 15.0 gm.
Distilled water, q.s.: 1,000.0 ml.
pH 6.5 to 6.6 after sterilization.

(5) *Medium 5.* Medium 5 is the same as medium 2, except adjust the final pH to 7.8 to 8.0 after sterilization.

(6) and (7) [Reserved]

(8) *Medium 8.* Medium 8 is the same as medium 2, except adjust the final pH to 5.8 to 6.0 after sterilization.

(9) *Medium 9.*

Pancreatic digest of casein: 17.0 gm.
Papaic digest of soybean: 3.0 gm.
Sodium chloride: 5.0 gm.
Dipotassium phosphate: 2.5 gm.
Dextrose: 2.5 gm.
Agar: 20.0 gm.
Distilled water, q.s.: 1,000.0 ml.
pH 7.2 to 7.3 after sterilization.

(10) *Medium 10.* Medium 10 is the same as medium 9, except:

Agar: 12.0 gm.
Polysorbate 80 (add polysorbate 80 after boiling the medium to dissolve the agar): 10.0 ml.
pH 7.2 to 7.3 after sterilization.

(11) *Medium 11.* Medium 11 is the same as medium 1, except adjust the final pH to 7.8 to 8.0 after sterilization.

(12) [Reserved]

(13) *Medium 13.*

Peptone: 10.0 gm.
Dextrose: 20.0 gm.
Distilled water, q.s.: 1,000.0 ml.
pH 5.6 to 5.7 after sterilization.

(14) through (17) [Reserved]

(18) *Medium 18.* Medium 18 is the same as medium 11, except boil to dissolve the ingredients and then add 20 milliliters of polysorbate 80.

(19) *Medium 19.*

Peptone: 9.4 gm.
Yeast extract: 4.7 gm.
Beef extract: 2.4 gm.
Sodium chloride: 10.0 gm.
Dextrose: 10.0 gm.
Agar: 23.5 gm.
Distilled water, q.s.: 1,000.0 ml.
pH 6.0 to 6.2 after sterilization.

(20) *Medium 20.*

Dextrose: 40.0 gm.
Peptone: 10.0 gm.
Agar: 15.0 gm.
Chloramphenicol: 0.05 gm. (activity)
Distilled water, q.s.: 1,000.0 ml.
pH 5.6 to 5.7 after sterilization.

(21) *Medium 21.* Use medium 20, sterilized and cooled to 50° C. Aseptically add 2 milliliters of a sterile cyclohexamide solution to each 100 milliliters of the melted agar. Sterile cyclohexamide solution is prepared by filtering a solution containing 10 milligrams of cyclohexamide per milliliter of distilled water through a membrane filter of 0.22-micron porosity.

(22) *Medium 22.*

Dextrose: 40.0 gm.
Peptone: 10.0 gm.
Distilled water, q.s.: 1,000.0 ml.
pH 5.6 to 5.7 after sterilization.

(23) *Medium 23.* Use medium 1, sterilized and cooled to 50° C. Aseptically add sufficient sterile erythromycin solution to give a final concentration of 600 micrograms of erythromycin activity per milliliter of medium. Sterile erythromycin solution is prepared by filtering a solution containing 10 milligrams of erythromycin per milliliter of distilled water through a membrane filter of 0.22-micron porosity.

(24) *Medium 24.* Same as medium 1, except use 30 grams of agar per liter, in lieu of 15 grams per liter.

(25) *Medium 25.* Use medium 1, sterilized and cooled to 50° C. Aseptically add sufficient sterile dihydorstreptomycin sulfate solution to give a final concentration of 1,000 micrograms of dihydrostreptomycin activity per milliliter of medium. Sterile dihydrostreptomycin

sulfate solution is prepared by filtering a solution containing 10 milligrams of dihydrostreptomycin per milliliter of distilled water through a membrane filter of 0.22-micron porosity.

(26) *Medium 26.* Use medium 1, sterilized and cooled to 50° C. Aseptically add sufficient sterile tetracycline hydrochloride solution to give a final concentration of 100 micrograms of tetracyline activity per milliliter of medium. Sterile tetracycline hydrochloride solution is prepared by filtering a solution containing 10 milligrams of tetracycline per milliliter of distilled water through a membrane filter of 0.22-micron porosity.

(27) *Medium 27.* Use medium 1, sterilized and cooled to 50° C. Aseptically add sufficient sterile neomycin sulfate solution to give a final concentration of 100 micrograms of neomycin activity per milliliter of medium. Sterile neomycin sulfate solution is prepared by filtering a solution containing 10 milligrams of neomycin per milliliter of distilled water through a membrane filter of 0.22-micron porosity.

(28) *Medium 28.* Use medium 1, sterilized and cooled to 50° C. Aseptically add sufficient sterile dihydrostreptomycin sulfate solution to give a final concentration of 500 micrograms of dihydrostreptomycin activity per milliliter of medium. Sterile dihydrostreptomycin sulfate solution is prepared by filtering a solution containing 10 milligrams of dihydrostreptomycin per milliliter of distilled water through a membrane filter of 0.22-micron porosity.

(29) *Medium 29.*

Beef extract: 6.0 gm.
Peptone: 10.0 gm.
Agar: 15.0 gm.
Distilled water, q.s.: 1,000.0 ml.
pH 7.8 to 8.0 after sterilization.

(30) and (31) [Reserved]

(32) *Medium 32.* Prepare as medium 1, except add 300 milligrams of hydrated manganese sulfate ($MnSO_4 \cdot H_2O$) to each liter of medium.

(33) *Medium 33.* Use medium 1, sterilized and cooled to 50° C. Aseptically add sufficient sterile sodium novobiocin solution to give a final concentration of 10 micrograms of novobiocin activity per milliliter of medium. Sterile sodium novobiocin solution is prepared by filtering a solution containing 2.5 milligrams of novobiocin per milliliter of distilled water through a membrane filter of 0.22-micron porosity.

§ 141.104 Test organisms.

(a) *Preparation of test organism suspensions.* For each test organism listed in the following table, select the media (as listed by medium number in § 141.103 (b)), incubation period of the Roux bottle, suggested dilution factor, and suggested storage period for the particular test organism and proceed by the appropriate method described in paragraph (b) of this section. Test organism letters A through L and M correspond to those used in "Outline of Details for Official Microbiological Assays of Antibiotics," A. Kirshbaum and B. Arret, "Journal of Pharmaceutical Sciences," vol. 56, No. 4, p. 512 (Apr. 1967).

Test organisms	Method used	Medium used for the— Slants	Medium used for the— Roux bottles	Incubation period of Roux bottle	Suggested dilution factor	Suggested storage period of suspensions under refrigeration
Test organism A—*Staphylococcus aureus* (ATCC 6538P).	1	1	1	24 hours	1:20	1 week.
Test organism B—*Sarcina subflava* (ATCC 7468).	1	1	1	24 hours	1:30	2 weeks.
Test organism C—*Sarcina lutea* (ATCC 9341)	1	1	1	24 hours	1:40	2 weeks.
Test organism D—*Staphylococcus epidermidis* (ATCC 12228).	1	1	1	24 hours	[1] 1:14	1 week.
Test organism E—*Saccharomyces cerevisiae* (ATCC 9763).	6 or 7	19	19	3 to 5 days	1:30	4 weeks.
Test organism F—*Bordetella bronchiseptica* (ATCC 4617).	1	1	1	24 hours	1:20	2 weeks.
Test organism G—*Bacillus cereus* var. *mycoides* (ATCC 11778).	3	1	1	1 week	1:11	6 months.
Test organism H—*Bacillus subtilis* (ATCC 6633).	1	1	1	24 hours		6 months.
	or 2	1	32	5 days		6 months
Test organism I—*Klebsiella pneumoniae* (ATCC 10031).	1	1	1	24 hours	1:25	1 week.
Test organism J—*Escherichia coli* (ATCC 10536)	1	1	1	24hours	1:20	2 weeks.
Test organism K—*Streptococcus faecalis* (ATCC 10541).	5					24 hours.
Test organism L—*Micrococcus flavus* (ATCC 10240).	1	1	1	48 hours	1:35	4 weeks.
Test organism M—*Microsporum gypseum* (ATCC 14683).	4					2 months.
Test organism N—*Sarcina lutea*, resistant to dihydrostreptomycin (ATCC 9341a).	1	1	1	24 hours	1:40	2 weeks.
Test organism O—*Staphylococcus aureus*, resistant to novobiocin (ATCC 12692).	1	33	33	24 hours	1:10	4 weeks.
Test organism P—*Staphylococcus aureus*, resistant to dihydrostreptomycin (ATCC6538-DR).	1	25	25	24 hours	1:20	4 weeks.
Test organism Q—*Staphylococcus aureus*, resistant to tetracycline (ATCC 12715).	1	26	26	24 hours	1:20	1 week.
Test organism R—*Sarcina subflava*, resistant to dihydrostreptomycin (ATCC 7468/d).	1	28	28	24 hours	1:30	2 weeks.
Test organism S—*Sarcina lutea*, resistant to erythromycin (ATCC 15957).	1	23	23	24 hours	1:40	2 weeks.
Test organism T—*Saccharomyces cerevisiae* (ATCC 2601).	7	19	19	3 to 5 days	1:30	4 weeks.
Test organism U—*Micrococcus flavus*, resistant to neomycin (ATCC 14452).	1	27	27	48 hours	1:35	4 weeks.
Test organism V—*Micrococcus flavus*, resistant to dihydrostreptomycin (ATCC 10240A).	1	28	28	48 hours	1:35	4 weeks.

[1] If the antibiotic to be tested is oleandomycin, paromomycin, or triacetyloleandomycin, the dilution factor is 1 : 25

(b) *Methods for preparation of test organism suspensions*—(1) *Method 1*—(i) *Preparation of suspension.* Maintain organisms on agar slants containing 10 milliliters of the appropriate medium. Incubate the slants at 32°C.–35°C. for 24 hours. Using 3 milliliters of sterile U.S.P. saline T.S., wash the growth from the agar slant onto a large agar surface, such as a Roux bottle, containing 250 milliliters of the appropriate medium. Spread the suspension of organisms over the entire surface of the Roux bottle with the aid of sterile glass beads. Incubate the Roux bottle at 32°C.–35°C. Wash the resulting growth from the agar surface with 50 milliliters of sterile U.S.P. saline T.S.

(ii) *Standardization of suspension.* Determine the dilution factor that will give a 25-percent light transmission at a wavelength of 580 millimicrons using a suitable photoelectric colorimeter and a 13-millimeter diameter test tube as an absorption cell. It may be necessary to adjust the suspension. Determine the amount of suspension to be added to each 100 milliliters of agar or nutrient broth by the use of test plates or test broth. Store the test organism suspension under refrigeration.

(2) *Method 2.* Proceed as directed in subparagraph (1) of this paragraph, except in lieu of subdivision (ii) thereof, heat-shock and standardize the suspension as follows: Centrifuge and decant the supernatant liquid. Resuspend the sediment with 50 to 70 milliliters of sterile U.S.P. saline T.S. and heat the suspension for 30 minutes at 70° C. Use test plates to assure the viability of the spores and to determine the amount of spore suspension to be added to each 100 milliliters of agar. Maintain the spore suspension under refrigeration.

(3) *Method 3.* Proceed as directed in subparagraph (1) of this paragraph, except in lieu of subdivision (ii) thereof, heat-shock and standardize the suspension as follows: Heat the suspension for 30 minutes at 70° C. Wash the spore suspension three times with 25 to 50 milliliters of sterile distilled water. Resuspend the organisms in 50 to 70 milliliters of sterile distilled water and heat-shock again for 30 minutes at 70° C. Use test plates to assure the viability of the spores and to determine the amount of spore suspension to be added to each 100 milliliters of agar. Maintain the spore suspension under refrigeration.

(4) *Method 4.* Grow the organism for 3 weeks at 25° C. in four 3-liter Erlenmeyer flasks, each containing 200 milliliters of Medium 20 as described in § 141.103(b)(20). Remove the floating mat from the flask with a sterile wire loop and place in a sterile blending jar. Aseptically add 200 milliliters of sterile distilled water and blend for approximately 30 seconds, allow to settle, then decant about 150 milliliters of the supernatant into 100-milliliter sterile, capped centrifuge tubes. Add the amount of distilled water equal to the amount removed each time and repeat this process 4 to 5 times to assure maximum recovery of

spores from the mycelial mat. Centrifuge the tubes containing the spores at 4,000 r.p.m. for 15 minutes and discard the supernatant. Wash the residual spores from all tubes, using a minimum of sterile distilled water (2 to 3 milliliters per tube), and pool the washings into a sterile flask containing a few sterile glass beads. (This procedure usually yields about 25 to 35 milliliters of spore supension.)

(5) *Method 5.* Maintain the test organisms in 100-milliliter quantities of nutrient broth—Medium 3 as described in § 141.103(b)(3). For the test prepare a fresh subculture by transferring a loopful of the stock culture to 100 milliliters of the same nutrient broth and incubate for 16 to 18 hours at 37° C. Store this broth culture under refrigeration.

(6) *Method 6.* Maintain the test organisms on agar slants containing 10 milliliters of the medium specified in paragraph (a) of this section. Incubate the slants at 32° C.–35° C. for 24 hours. Inoculate 100 milliliters of nutrient broth—Medium 13 as described in § 141.103(b)(13). Incubate for 16 to 18 hours at 37° C. Proceed as directed in subparagraph (1)(ii) of this paragraph.

(7) *Method 7.* Proceed as directed in subparagraph (1) of this paragraph, except incubate the slants at 30° C. for 24 hours and incubate the Roux bottle at 30° C. for 48 hours.

§ 141.110 Microbiological agar diffusion assay.

Using the sample solution prepared as described in the section for the particular antibiotic to be tested, proceed as described in paragraphs (a), (b), (c), and (d) of this section.

(a) *Preparation of inoculated plates.* For each antibiotic listed in the table in this paragraph, select the media (as listed by medium number in § 141.103(b)), the amount of media to be used in the base and seed layers, the test organism (as listed in § 141.104(a)), and the suggested inoculum and prepare the inoculated plates as follows: Prepare the base layer by adding the appropriate amount of agar to each Petri dish (20 by 100 millimeters). Distribute the agar evenly in the plates and allow it to harden on a flat, level surface. To prepare the seed layer, add the suggested inoculum of the test organism suspension to a sufficient amount of agar, which has been melted and cooled to 48° C.–50° C. Swirl the flask to obtain a homogeneous suspension, and add the appropriate amount of the inoculated media to each of the plates containing the uninoculated base agar. Spread evenly over the agar surface, cover with porcelain covers glazed on the outside, and allow to harden on a flat, level surface. After the agar has hardened, place 6 cylinders described in § 141.101(a)(1) on the inoculated agar surface so that they are at approximately 60° intervals on a 2.8-centimeter radius.

Antibiotic	Media to be used (as listed by medium number in § 141.103(b))		Milliliters of media to be used in the base and seed layers		Test Organism	Suggested volume of standardized inoculum to be added to each 100 milliliters of seed agar	Incubation Temperature for the plates
	Base layer	Seed layer	Base layer	Seed layer			
						Milliliters	*Degrees C.*
Amphomycin	2	1	21	4	U	0.5	37
Amphotericin B	None	19	None	8	E	1.0	30
Ampicillin	11	11	21	4	C	0.5	32-35
Bacitracin	2	1	21	4	B	0.3	32-35
Bacitracin	2	1	21	4	L	0.3	32-35
Cephaloridine	2	1	21	4	A	0.1	32-35
Cephalothin	2	1	21	4	A	0.1	32-35
Chloramphenicol	2	1	21	4	C	2.0	32-35
Chlortetracycline	8	8	21	4	G	[1]	30
Cloxacillin	2	1	21	4	A	0.1	32-35
Colistimethate, sodium	9	10	21	4	F	0.1	37
Colistin	9	10	21	4	F	0.1	37
Cycloserine	2	1	10	4	A	0.04	30
Dactinomycin	5	5	21	4	H	[1]	37
Dicloxacillin	2	1	21	4	A	0.1	32-35
Dihydrostreptomycin	5	5	21	4	H	[1]	37
Erythromycin	11	11	21	4	C	1.5	32-35
Gentamicin	11	11	21	4	D	1.5	37
Kanamycin	11	11	21	4	A	[2] 0.4	32-35
Kanamycin B	5	5	21	4	H	[1]	37
Lincomycin	11	11	21	4	C	1.5	32-35
Methicillin	2	1	21	4	A	0.3	32-35
Nafcillin	2	1	21	4	A	0.3	32-35
Neomycin	11	11	21	4	A	0.4	32-35
Neomycin	11	11	21	4	D	1.0	37
Novobiocin	11	11	21	4	D	4.0	30
Nystatin	None	19	None	8	T	1.0	30
Oleandomycin	11	11	21	4	D	1.0	37
Oxacillin	2	1	21	4	A	0.3	32-35
Oxytetracycline	8	8	21	4	G	[1]	30
Paromomycin	11	11	21	4	D	2.0	37
Paromomycin	29	29	21	4	H	[1]	37
Penicillin G	2	1	21	4	A	1.0	32-35
Phenethicillin	11	11	21	4	C	0.5	32-35
Phenoxymethyl penicillin	2	1	21	4	A	1.0	32-35
Polymyxin B	9	10	21	4	F	0.1	37
Streptomycin	5	5	21	4	H	[1]	37
Tetracycline	8	8	21	4	G	[1]	30
Triacetyloleandomycin	18	18	21	4	D	1.0	37
Vancomycin	8	8	10	4	G	[1]	30
Viomycin	5	5	10	4	H	[1]	37

[1] Determine the amount of the inoculum by the use of test plates.
[2] Use dilution of the suspension that gives 25-percent light transmission in lieu of the stock suspension.

(b) *Preparation of working standard stock solutions and standard response line solutions.* For each antibiotic listed in the table in this paragraph, select the working standard drying conditions, solvent(s), concentrations, and storage time for the standard solutions and proceed as follows: If necessary, dry the working standard as described in § 141.501; dissolve and dilute an accurately weighed portion to the proper concentration to prepare the working standard stock solution. Store the working standard stock solution under refrigeration and do not use longer than the recommended storage time. Further dilute an aliquot of the working standard stock solution to the proper concentrations to prepare the standard response line solutions. The reference concentration of the assay is the mid concentration of the response line.

Antibiotic	Working standard stock solutions					Standard response line concentrations	
	Drying conditions (method number as listed in § 141.501)	Initial solvent	Diluent (solution number as listed in § 141.102(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
Amphomycin. (The working standard stock solution should be allowed to stand overnight at room temperature to allow complete solution to take place.)	1		3	0.1 mg	14 days	3	6.4, 8.0, 10.0, 12.5, 15.6 μg.
Amphotericin B	1		Dimethylsulfoxide	1 mg.[1]	1 day	5	0.64, 0.80, 1.00, 1.25, 1.56 μg.
Ampicillin	Not dried		Distilled water	0.1 mg	1 week	3	0.064, 0.080, 0.100, 0.125, 0.156 μg. (Prepare the standard response line simultaneously with the sample solution.)
Bacitracin	1		1	100 units	7 days	1	0.64, 0.80, 1.00, 1.25, 1.56 units.
Cephaloridine	1		1	1 mg	5 days	1	0.64, 0.80, 1.00, 1.25, 1.56 μg.
Cephalothin	1		1	1 mg	5 days	1	0.64, 0.80, 1.00, 1.25, 1.56 μg.

See footnotes at end of table.

Antibiotic	Working standard stock solutions					Standard response line concentrations	
	Drying conditions (method number as listed in § 141.501)	Initial solvent	Diluent (solution number as listed in § 141.102(a)	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
Chloramphenicol	Not dried	10,000 μg. per ml. in ethyl alcohol.	1	1 mg	1 month	1	32.0, 40.0, 50.0, 62.5, 78.1 μg.
Chlortetracycline	Not dried		0.01*N* HCl	1 mg	5 days	4	0.064, 0.080, 0.100, 0.125, 0.156 μg.
Cloxacillin	Not dried		1	1 mg	7 days	1	3.20, 4.00, 5.00, 6.25, 7.81 μg.
Colistimethate, sodium	1	10,000 μg. per ml. in distilled water.	6	1 mg	2 weeks	2	0.64, 0.80, 1.00, 1.25, 1.56 μg.
Colistin	1	10,000 μg. per ml. in distilled water.	6	1 mg	2 weeks	2	0.64, 0.80, 1.00, 1.25, 1.56 μg.
Cycloserine	1		Distilled water	1 mg	1 month	1	32.0, 40.0, 50.0, 62.5, 78.1 μg.
Dactinomycin	1	10,000 μg. per ml. in methyl aclohol.	3	1 mg	1 week	3	0.50, 0.71, 1.00, 1.41, 2.00 μg.
Dicloxacillin	Not dried		1	1 mg	7 days	1	3.20, 4.00, 5.00, 6.25, 7.81 μg.
Dihydrostreptomycin	5		3	1 mg	30 days	3	0.64, 0.80, 1.00, 1.25, 1.56 μg.
Erythromycin	1	10,000 μg. per ml. in methyl alcohol.	3	1 mg	14 days	3	0.64, 0.80, 1.00, 1.25, 1.56 μg.
Gentamicin	3		3	1 mg	1 month	3	0.064, 0.080, 0.100, 0.125, 0.156 μg.
Kanamycin	Not dried		3	1 mg	1 month	3	3.20, 4.00, 5.00, 6.25, 7.81 μg.
Kanamycin B (use the kanamycin sulfate working standard).	Not dried		3	1 mg	1 month	3	0.64, 0.80, 1.00, 1.25, 1.56 μg.
Lincomycin	Not dried	Idrs	Distilled water	1 mg	1 month	3	1.28, 1.60, 2.00, 2.50, 3.12 μg.
Methicillin	Not dried		1	1 mg	4 days	1	6.4, 8.0, 10.0, 12.5, 15.6 μg.
Nafcillin	Not dried		1	1 mg	2 days	1	1.28, 1.60, 2.00, 2.50, 3.12 μg.
Neomycin	1		3	1 mg	2 weeks	3	0.64, 0.80, 1.00, 1.25, 1.56 μg. (if test organism D is used); 6.4, 8.0, 10.0, 12.5, 15.6 μg. (if test organism A is used).
Novobiocin	5	10,000 μg. per ml. in absolute ethyl alcohol.	3	1 mg	30 days	1	0.320, 0.400, 0.500, 0.625, 0.781 μg.
Nystatin	4		Dimethylformamide.	1,000 units [2]	1 day	2	12.8, 16.0, 20.0, 25.0, 31.2 units. (Prepare the standard response line solutions simultaneously with the sample solution to be tested.)
Oleandomycin	Not dried	10,000 μg. per ml. in ethyl alcohol.	3	1 mg	30 days	3	3.20, 4.00, 5.00, 6.25, 7.81 μg.
Oxacillin	Not dried		1	1 mg	3 days	1	3.20, 4.00, 5.00, 6.25, 7.81 μg.
Oxytetracycline	Not dried		0.1*N* HCl	1 mg	7 days	4	0.64, 0.80, 1.00, 1.25, 1.56 μg.
Paromomycin	1		3	1 mg	3 weeks	3	1.28, 1.60, 2.00, 2.50, 3.12 μg. (if test organism H is used); 0.64, 0.80, 1.00, 1.25, 1.56 μg. (if test organism D is used)
Penicillin G	Not dried		1	1,000 units	2 days	1	0.64, 0.80, 1.00, 1.25, 1.56 units.
Phenethicillin	Not dried		Distilled water	1,000 units	1 week	3	0.064, 0.080, 0.100, 0.125, 0.156 unit.
Phenoxymethyl penicillin	Not dried	2 ml. of methyl alcohol.	1	100 units	2 days	1	0.64, 0.80, 1.00, 1.25, 1.56 units.
Polymyxin B	1	10,000 units per ml. in distilled water.	6	1,000 units	2 weeks	2	6.4, 8.0, 10.0, 12.5, 15.6 units.
Streptomycin	1		3	1 mg	30 days	3	0.64, 0.80, 1.00, 1.25, 1.56 μg.
Tetracycline	Not dried		0.1*N* HCl	1 mg	1 day	4	0.64, 0.80, 1.00, 1.25, 1.56 μg.
Triacetyloleandomycin	1		15	1 mg	1 day	5	9.6, 12.0, 15.0, 18.8, 23.4 μg.
Vancomycin	1		Distilled water	0.4 mg	1 week	4	6.4, 8.0, 10.0, 12.5, 15.6 μg.
Viomycin	1		Distilled water	1 mg	1 week	3	32.0, 40.0, 50.0, 62.5, 78.1 μg.

[1] Further dilute aliquots of the working standard stock solution with dimethylsulfoxide to give concentrations of 10.0, 14.2, 20.0, 28.4, and 40.0 micrograms per milliliter.
[2] Further dilute aliquots of the working standard stock solution with dimethylformamide to give concentrations of 256, 320, 400, 500, and 624 units per milliliter.

(c) *Procedure for assay.* For the standard response line, use a total of 12 plates—three plates for each response line solution, except the reference concentration solution which is included on each plate. On each set of three plates, fill three alternate cylinders with the reference concentration solution and the other three cylinders with the concentration of the response line under test. Thus, there will be 36 reference concentration zones of inhibition and nine zones of inhibition for each of the four other concentrations of the response line. For each sample tested use three plates. Fill three alternate cylinders on each plate with the standard reference concentration solution and the other three cylinders with the sample reference concentration solution. After all the plates have incubated for 16 to 18 hours at the appropriate incubation temperature for each antibiotic listed in the table in paragraph (b) of this section, measure the diameters of the zones of inhibition using an appropriate measuring device such as a millimeter rule, calipers, or an optical projector.

(d) *Estimation of potency.* To prepare the standard response line, average the diameters of the standard reference concentration and average the diameters of the standard response line concentration tested for each set of three plates. Average also all 36 diameters of the reference concentration for all four sets of plates. The average of the 36 diameters of the reference concentration is the correction point of the response line. Correct the average diameter obtained for each concentration to the figure it would be if the average reference concentration

diameter for that set of three plates were the same as the correction point. Thus, if in correcting the highest concentration of the response line, the average of the 36 diameters of the reference concentration is 16.5 millimeters and the average of the reference concentration of the set of three plates (the set containing the highest concentration of the response line) is 16.3 millimeters, the correction is +0.2 millimeter. If the average reading of the highest concentration of the response line of these same three plates is 16.9 millimeters, the corrected diameter is then 17.1 millimeters. Plot these corrected diameters, including the average of the 36 diameters of the reference concentration on 2-cycle semilog paper, using the concentration of the antibiotic in micrograms or units per milliliter as the ordinate (the logarithmic scale), and the diameter of the zone of inhibition as the abscissa. The response line is drawn either through these points by inspection or through points plotted for highest and lowest zone diameters obtained by means of the following equation:

$$L=\frac{3a+2b+c-e}{5},$$

$$H=\frac{3e+2d+c-a}{5},$$

where:

L = Calculated zone diameter for the lowest concentration of the standard response line;

H = Calculated zone diameter for the highest concentration of the standard response line;

c = Average zone diameter of 36 readings of the reference point standard solution;

a, b, d, e = Corrected average values for the other standard solutions, lowest to highest concentration, respectively.

To estimate the potency of the sample, average the zone diameters of the standard and the zone diameters of the sample on the three plates used. If the average zone diameter of the sample is larger than that of the standard, add the difference between them to the reference concentration diameter of the standard response line. If the average zone diameter of the sample is lower than that of the standard, subtract the difference between them from the reference concentration diameter of the standard response line. From the response line, read the concentrations corresponding to these corrected values of zone diameters. Multiply the concentration by the appropriate dilution factor to obtain the antibiotic content of the sample.

§ 141.111 Microbiological turbidimetric assay.

Using the sample solution prepared as described in the section for the particular antibiotic to be tested, proceed as described in paragraphs (a), (b), and (c) of this section.

(a) *Preparation of working standard stock solutions and standard response line solutions.* For each antibiotic listed in the table in this paragraph, select the working standard drying conditions, solvent(s), concentrations, and storage time for the standard solutions and proceed as follows: If necessary, dry the working standard as described in § 141.501; dissolve and dilute an accurately weighed portion to the proper concentration for the working standard stock solution. Store the working standard stock solution under refrigeration and do not use longer than the recommended storage time. Prepare the proper concentrations for the standard response line solutions by further diluting an aliquot of the working standard stock solution. The reference concentration of the assay is the mid concentration of the standard response line.

Antibiotic	Working standard stock solutions					Standard response line concentrations	
	Drying conditions (method number as listed in § 141.501)	Initial solvent	Diluent (solution number as listed in § 141.102(a))	Final concentration	Storage time under refrigeration	Diluent (solution number as listed in § 141.102(a))	Final concentrations—units or micrograms of antibiotic activity per milliliter
Chloramphenicol	Not dried	Ethyl alcohol (10,000 μg. per ml.).	1	1 mg.	1 month	1	2.00, 2.24, 2.50, 2.80, 3.12 μg.
Chlortetracycline	Not dried		0.01*N* HCl	1 mg.	5 days	4	0.038, 0.048, 0.060, 0.075, 0.094 μg.
Cycloserine	1		Distilled water	1 mg.	1 month	Distilled water	30.0, 38.7, 50.0, 64.2, 82.5 μg.
Demethylchlortetracycline	1		0.1*N* HCl	1 mg.	4 days	4	0.064, 0.080, 0.100, 0.125, 0.156 μg.
Dihydrostreptomycin	5		Distilled water	1 mg.	30 days	Distilled water	24.0, 26.8, 30.0, 33.5, 37.5 μg.
Doxycycline	Not dried		0.1*N* HCl	1 mg.	7 days	4	0.064, 0.080, 0.100, 0.125, 0.156 μg.
Gramicidin	1		95% ethyl alcohol	1 mg.	30 days	95% ethyl alcohol	0.028, 0.034, 0.040, 0.048, 0.057 μg.
Methacycline	1		13	1 mg.	7 days	4	0.038, 0.048, 0.060, 0.075, 0.094 μg.
Oxytetracycline	Not dried		0.1*N* HCl	1 mg.	7 days	4	0.154, 0.192, 0.240, 0.300, 0.375 μg.
Rolitetracycline	1		Methanol	1 mg.	1 day	4	0.154, 0.192, 0.240, 0.300, 0.375 μg.
Streptomycin	1		Distilled water	1 mg.	30 days	Distilled water	24.0, 26.8, 30.0, 33.5, 37.5 μg.
Tetracycline	Not dried		0.1*N* HCl	1 mg.	1 day	4	0.154, 0.192, 0.240, 0.300, 0.375 μg.
Triacetyl-oleandomycin	1		13	1 mg.	1 day	1	16.0, 20.0, 25.0, 31.2, 39.0 μg.
Tyrothricin	1		95% ethyl alcohol	1 mg.	30 days	95% ethyl alcohol	0.140, 0.170, 0.200, 0.240, 0.285 μg.
Viomycin	1		Distilled water	1 mg.	7 days	Distilled water	64, 80, 100, 125, 156 μg.

(b) *Procedure for assay.* For each antibiotic listed in the table in this paragraph, select the test organism (as listed in § 141.104(a)), nutrient broth (as listed by medium number in § 141.103(b)), and suggested inoculum and proceed as follows: Place 1.0 milliliter of each concentration of the standard response line (prepared as described in paragraph (a) of this section) and of the sample solution in each set of three replicate tubes (as described in § 141.101(b)(1)). Fifteen tubes are used for the five-point standard response line and three for each sample. To each tube add 9 milliliters of the inoculated broth and place immediately in a water bath at the appropriate temperature for 2 to 4 hours. The exact length of the incubation period should be determined by observation of growth in the reference concentration tube of the standard. Remove the tubes from the water bath and add 0.5 milliliter of a 12-percent formaldehyde solution to each tube. Determine the absorbance value of each tube in a suitable photoelectric colorimeter, at a wavelength of 530 millimicrons. Set the instrument at zero absorbance with an uninoculated blank composed of the same amounts of nutrient broth and formaldehyde used in the assay.

Antibiotic	Test organism	Medium (nutrient broth)	Suggested volume of standardized inoculum to be added to each 100 milliliters of medium (nutrient broth)	Incubation temperature
			Milliliters	*Degrees C.*
Chloramphenicol	J	3	0.7	37
Chlortetracycline	A	3	0.1	37
Cycloserine	A	3	0.4	37
Demethylchlortetracycline	A	3	0.1	37
Dihydrostreptomycin	I	3	0.1	37
Doxycycline	A	3	0.1	37
Gramicidin	K	3	1.0	37
Methacycline	A	3	0.1	37
Oxytetracycline	A	3	0.1	37
Rolitetracycline	A	3	0.1	37
Streptomycin	I	3	0.1	37
Tetracycline	A	3	0.1	37
Triacetyloleandomycin	I	3	0.1	37
Tyrothricin	K	3	1.0	37
Viomycin	I	3	0.1	37

(c) *Estimation of potency.* To prepare the standard response line, plot the average absorbance values for each concentration of the standard response line on one-cycle semilogarithmic graph paper with the absorbance values on the arithmetic scale and concentrations on the logarithmic scale. The response line is drawn either through these points by inspection or through points plotted for highest and lowest absorbance values obtained by means of the following equations:

$$L=\frac{3a+2b+c-e}{5},$$

$$H=\frac{3e+2d+c-a}{5},$$

where:

L=Calculated absorbance value for the lowest concentration of the standard response line.

H=Calculated absorbance value for the highest concentration of the standard response line.

a, b, c, d, e=Average absorbance values for each concentration of the standard response line, lowest to the highest, respectively.

To estimate the potency of the sample, average the absorbance values for the sample and determine the antibiotic concentration from the standard response line. Multiply the concentration by the appropriate dilution factor to obtain the antibiotic content of the sample.

This order adding new sections dealing with microbiological assay methods is nonrestrictive and noncontroversial in nature; therefore, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: August 8, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-9972; Filed, Aug. 22, 1968; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6969]

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

Constructive Ownership of Stock

On November 16, 1967, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to section 4 of the Act of August 31, 1964 (Public Law 88-554, 78 Stat. 762), relating to constructive ownership of stock, was published in the FEDERAL REGISTER (32 F.R. 15758). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment as proposed is hereby adopted, subject to the following changes:

PARAGRAPH 1. The last sentence of § 1.306-2(a), as set forth in paragraph 4 of the notice of proposed rule making, is revised.

PAR. 2. Example (5) of § 1.318-2(c), as set forth in paragraph 7 of the notice of proposed rule making, is revised.

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

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: August 19, 1968.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 302, 304, 306, 318, 382, 856, and 6038 of the Internal Revenue Code of 1954 to section 4 of the Act of August 31, 1964 (Public Law 88-554, 78 Stat. 762), such regulations are amended as follows:

PARAGRAPH 1. Paragraph (f) of § 1.302-4 is amended to read as follows:

§ 1.302-4 Termination of shareholder's interest.

* * * * *

(f) In determining whether an entire interest in the corporation has been terminated under section 302(b)(3), under all circumstances paragraphs (2), (3), (4), and (5) of section 318(a) (relating to constructive ownership of stock) shall be applicable.

* * * * *

PAR. 2. Section 1.304 is amended by revising section 304 (b)(1) and (c)(2), and by adding a historical note. These revised and added provisions read as follows:

§ 1.304 Statutory provisions; redemption through use of related corporations.

SEC. 304. *Redemption through use of related corporations.* * * *

(b) *Special rules for application of subsection (a)—(1) Rule for determinations under section 302(b).* In the case of any acquisition of stock to which subsection (a) of this section applies, determinations as to whether the acquisition is, by reason of section 302(b), to be treated as a distribution in part or full payment in exchange for the stock shall be made by reference to the stock of the issuing corporation. In applying section 318(a) (relating to constructive ownership of stock) with respect to section 302(b) for purposes of this paragraph, sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50-percent limitation contained therein.

* * * * *

(c) *Control.* * * *

(2) *Constructive ownership.* Section 318(a) (relating to the constructive ownership of stock) shall apply for purposes of determining control under paragraph (1). For purposes of the preceding sentence, sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50-percent limitation contained therein.

[Sec. 304 as amended by sec. 4, Act of Aug. 31, 1964 (Pub. Law 88-554, 78 Stat. 762)]

PAR. 3. Paragraphs (a) and (c) of § 1.304-2 are amended to read as follows:

§ 1.304-2 Acquisition by related corporation (other than subsidiary).

(a) If a corporation, in return for property, acquires stock of another corporation from one or more persons, and the person or persons from whom the stock was acquired were in control of both such corporations before the acquisition, then such property shall be treated as received in redemption of stock of the acquiring corporation. The stock received by the acquiring corporation shall be treated as a contribution to the capital of such corporation. See section 362(a) for determination of the basis of such stock. The transferor's basis for his stock in the acquiring corporation shall be increased by the basis of the stock surrendered by him. (But see below in this paragraph for subsequent reductions of basis in certain cases.) As to each person transferring stock, the amount received shall be treated as a distribution of property under section 302(d), unless as to such person such amount is to be treated as received in exchange for the stock under the terms of section 302(a) or section 303. In applying section 302(b), reference shall be had to the shareholder's ownership of

stock in the issuing corporation and not to his ownership of stock in the acquiring corporation (except for purposes of applying section 318(a)). In determining control and applying section 302(b), section 318(a) (relating to the constructive ownership of stock) shall be applied without regard to the 50-percent limitation contained in section 318(a)(2)(C) and (3)(C). A series of redemptions referred to in section 302(b)(2)(D) shall include acquisitions by either of the corporations of stock of the other and stock redemptions by both corporations. If section 302(d) applies to the surrender of stock by a shareholder, his basis for his stock in the acquiring corporation after the transaction (increased as stated above in this paragraph) shall not be decreased except as provided in section 301. If section 302(d) does not apply, the property received shall be treated as received in a distribution in payment in exchange for stock of the acquiring corporation under section 302(a), which stock has a basis equal to the amount by which the shareholder's basis for his stock in the acquiring corporation was increased on account of the contribution to capital as provided for above in this paragraph. Accordingly, such amount shall be applied in reduction of the shareholder's basis for his stock in the acquiring corporation. Thus, the basis of each share of the shareholder's stock in the acquiring corporation will be the same as the basis of such share before the entire transaction. The holding period of the stock which is considered to have been redeemed shall be the same as the holding period of the stock actually surrendered.

* * * * *

(c) The application of section 304(a)(1) may be illustrated by the following examples:

Example (1). Corporation X and corporation Y each have outstanding 200 shares of common stock. One-half of the stock of each corporation is owned by an individual, A, and one-half by another individual, B, who is unrelated to A. On or after August 31, 1964, A sells 30 shares of corporation X stock to corporation Y for $50,000, such stock having an adjusted basis of $10,000 to A. After the sale, A is considered as owning corporation X stock as follows: (i) 70 shares directly, and (ii) 15 shares constructively, since by virtue of his 50-percent ownership of Y he constructively owns 50 percent of the 30 shares owned directly by Y. Since A's percentage of ownership of X's voting stock after the sale (85 out of 200 shares, or 42.5%) is not less than 80 percent of his percentage of ownership of X's voting stock before the sale (100 out of 200 shares, or 50%), the transfer is not "substantially disproportionate" as to him as provided in section 302(b)(2). Under these facts, and assuming that section 302(b)(1) is not applicable, the entire $50,000 is treated as a dividend to A to the extent of the earnings and profits of corporation Y. The basis of the corporation X stock to corporation Y is $10,000, its adjusted basis to A. The amount of $10,000 is added to the basis of the stock of corporation Y in the hands of A.

Example (2). The facts are the same as in example (1) except that A sells 80 shares of corporation X stock to corporation Y, and the sale occurs before August 31, 1964. After the sale, A is considered as owning corporation X stock as follows: (i) 20 shares directly, and (ii) 90 shares indirectly, since by virtue of his 50-percent ownership of Y he constructively owns 50 percent of the 80 shares owned directly by Y and 50 percent of the 100 shares attributed to Y because they are owned by Y's stockholder, B. Since after the sale A owns a total of more than 50 percent of the voting power of all of the outstanding stock of X (110 out of 200 shares, or 55%), the transfer is not "substantially disproportionate" as to him as provided in section 302(b)(2).

Example (3). Corporation X and corporation Y each have outstanding 100 shares of common stock. A, an individual, owns one-half the stock of each corporation, B owns one-half the stock of corporation X, and C owns one-half the stock of corporation Y. A, B, and C are unrelated. A sells 30 shares of the stock of corporation X to corporation Y for $50,000, such stock having an adjusted basis of $10,000 to him. After the sale, A is considered as owning 35 shares of the stock of corporation X (20 shares directly and 15 constructively because one-half of the 30 shares owned by corporation Y are attributed to him). Since before the sale he owned 50 percent of the stock of corporation X and after the sale he owned directly and constructively only 35 percent of such stock, the redemption is substantially disproportionate as to him pursuant to the provisions of section 302(b)(2). He, therefore, realizes a gain of $40,000 ($50,000 minus $10,000). If the stock surrendered is a capital asset, such gain is long-term or short-term capital gain depending on the period of time that such stock was held. The basis to A for the stock of corporation Y is not changed as a result of the entire transaction. The basis to corporation Y for the stock of corporation X is $50,000, i.e., the basis of the transferor ($10,000), increased in the amount of gain recognized to the transferor ($40,000) on the transfer.

Example (4). Corporation X and corporation Y each have outstanding 100 shares of common stock. H, an individual, W, his wife, S, his son, and G, his grandson, each own 25 shares of stock of each corporation. H sells all of his 25 shares of stock of corporation X to corporation Y. Since both before and after the transaction H owned directly and constructively 100 percent of the stock of corporation X, and assuming that section 302(b)(1) is not applicable, the amount received by him for his stock of corporation X is treated as a dividend to him to the extent of the earnings and profits of corporation Y.

PAR. 4. Paragraph (a) of § 1.306–2 is amended to read as follows:

§ 1.306–2 Exception.

(a) If a shareholder terminates his entire stock interest in a corporation—

(1) By a sale or other disposition within the requirements of section 306(b)(1)(A), or

(2) By redemption under section 302(b)(3) (through the application of section 306(b)(1)(B)),

the amount received from such disposition shall be treated as an amount received in part or full payment for the stock sold or redeemed. In the case of a sale, only the stock interest need be terminated. In determining whether an entire stock interest has been terminated under section 306(b)(1)(A), all of the provisions of section 318(a) (relating to constructive ownership of stock) shall be applicable. In determining whether a shareholder has terminated his entire interest in a corporation by a redemption of his stock under section 302(b)(3), all of the provisions of section 318(a) shall be applicable unless the shareholder meets the requirements of section 302(c)(2) (relating to termination of all interest in the corporation). If the requirements of section 302(c)(2) are met, section 318(a)(1) (relating to members of a family) shall be inapplicable. Under all circumstances paragraphs (2), (3), (4), and (5) of section 318(a) shall be applicable.

* * * * *

PAR. 5. Section 1.318 is amended to read as follows:

§ 1.318 Statutory provisions; constructive ownership of stock.

SEC. 318. *Constructive ownership of stock*—(a) *General rule.* For purposes of those provisions of this subchapter to which the rules contained in this section are expressly made applicable—

(1) *Members of family*—(A) *In general.* An individual shall be considered as owning the stock owned, directly or indirectly, by or for—

(i) His spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), and

(ii) His children, grandchildren, and parents.

(B) *Effect of adoption.* For purposes of subparagraph (A)(ii), a legally adopted child of an individual shall be treated as a child of such individual by blood.

(2) *Attribution from partnerships, estates, trusts, and corporations*—(A) *From partnerships and estates.* Stock owned, directly or indirectly, by or for a partnership or estate shall be considered as owned proportionately by its partners or beneficiaries.

(B) *From trusts.* (i) Stock owned, directly or indirectly, by or for a trust (other than an employees' trust described in section 401(a) which is exempt from tax under section 501(a)) shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust.

(ii) Stock owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners) shall be considered as owned by such person.

(C) *From corporations.* If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned, directly or indirectly, by or for such corporation, in that proportion which the value of the stock which such person so owns bears to the value of all the stock in such corporation.

(3) *Attribution to partnerships, estates, trusts, and corporations*—(A) *To partnerships and estates.* Stock owned, directly or indirectly, by or for a partner or a beneficiary of an estate shall be considered as owned by the partnership or estate.

(B) *To trusts.* (i) Stock owned, directly or indirectly, by or for a beneficiary of a trust (other than an employees' trust described in section 401(a) which is exempt from tax under section 501(a)) shall be considered as owned by the trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this clause, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of

such interest, computed actuarially, is 5 percent or less of the value of the trust property.

(ii) Stock owned, directly or indirectly, by or for a person who is considered the owner of any portion of a trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners) shall be considered as owned by the trust.

(C) *To corporations.* If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such corporation shall be considered as owning the stock owned, directly or indirectly, by or for such person.

(4) *Options.* If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(5) *Operating rules*—(A) *In general.* Except as provided in subparagraphs (B) and (C), stock constructively owned by a person by reason of the application of paragraph (1), (2), (3), or (4), shall, for purposes of applying paragraphs (1), (2), (3), and (4), be considered as actually owned by such person.

(B) *Members of family.* Stock constructively owned by an individual by reason of the application of paragraph (1) shall not be considered as owned by him for purposes of again applying paragraph (1) in order to make another the constructive owner of such stock.

(C) *Partnerships, estates, trusts, and corporations.* Stock constructively owned by a partnership, estate, trust, or corporation by reason of the application of paragraph (3) shall not be considered as owned by it for purposes of applying paragraph (2) in order to make another the constructive owner of such stock.

(D) *Option rule in lieu of family rule.* For purposes of this paragraph, if stock may be considered as owned by an individual under paragraph (1) or (4), it shall be considered as owned by him under paragraph (4).

(b) *Cross references.* For provisions to which the rules contained in subsection (a) apply, see—

(1) Section 302 (relating to redemption of stock);

(2) Section 304 (relating to redemption by related corporations);

(3) Section 306(b)(1)(A) (relating to disposition of section 306 stock);

(4) Section 334(b)(3)(C) (relating to basis of property received in certain liquidations of subsidiaries);

(5) Section 382(a)(3) (relating to special limitations on net operating loss carryovers);

(6) Section 856(d) (relating to definition of rents from real property in the case of real estate investment trusts);

(7) Section 958(b) (relating to constructive ownership rules with respect to controlled foreign corporations); and

(8) Section 6038(d)(1) (relating to information with respect to certain foreign corporations).

[Sec. 318 as amended by sec. 10(h), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1009); sec. 20(d), Rev. Act 1962 (76 Stat. 1063); sec. 4, Act of Aug. 31, 1964 (Pub. Law 88-554, 78 Stat. 762)]

PAR. 6. Section 1.318-1 is amended to read as follows:

§ 1.318-1 Constructive ownership of stock; introduction.

(a) For the purposes of certain provisions of chapter 1 of the Code, section 318(a) provides that stock owned by a taxpayer includes stock constructively owned by such taxpayer under the rules set forth in such section. An individual is considered to own the stock owned, directly or indirectly, by or for his spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), and by or for his children, grandchildren, and parents. Under section 318(a)(2) and (3), constructive ownership rules are established for partnerships and partners, estates and beneficiaries, trusts and beneficiaries, and corporations and stockholders. If any person has an option to acquire stock, such stock is considered as owned by such person. The term "option" includes an option to acquire such an option and each of a series of such options.

(b) In applying section 318(a) to determine the stock ownership of any person for any one purpose—

(1) A corporation shall not be considered to own its own stock by reason of section 318(a)(3)(C);

(2) In any case in which an amount of stock owned by any person may be included in the computation more than one time, such stock shall be included only once, in the manner in which it will impute to the person concerned the largest total stock ownership; and

(3) In determining the 50-percent requirement of section 318(a)(2)(C) and (3)(C), all of the stock owned actually and constructively by the person concerned shall be aggregated.

PAR. 7. Section 1.318-2 is amended by revising paragraph (a), by revising that part of paragraph (c) which precedes example (1), and by revising example (5) of paragraph (c). These amended provisions read as follows:

§ 1.318-2 Application of general rules.

(a) The application of paragraph (b) of § 1.318-1 may be illustrated by the following examples:

Example (1). H, an individual, owns all of the stock of corporation A. Corporation A is not considered to own the stock owned by H in corporation A.

Example (2). H, an individual, his wife, W, and his son, S, each own one-third of the stock of the Green Corporation. For purposes of determining the amount of stock owned by H, W, or S for purposes of section 318(a)(2)(C) and (3)(C), the amount of stock held by the other members of the family shall be added pursuant to paragraph (b)(3) of § 1.318-1 in applying the 50-percent requirement of such section. H, W, or S, as the case may be, is for this purpose deemed to own 100 percent of the stock of the Green Corporation.

* * * * *

(c) The application of section 318(a)(2) and (3), relating to partnerships, trusts and corporations, may be illustrated by the following examples:

* * * * *

Example (5). A and B, unrelated individuals, own 70 percent and 30 percent, respectively, of the stock of corporation M. A, B, and corporation M all own stock of corporation O. Since B owns less than 50 percent in value of the stock of corporation M, neither B nor corporation M constructively owns the stock of corporation O owned by the other. However, for purposes of certain sections of the Code, such as sections 304 and 856(d), the 50-percent limitation of section 318(a)(2)(C) and (3)(C) is disregarded or is reduced to less than 30 percent. For such purposes, B constructively owns his proportionate share of the stock of corporation O owned directly by corporation M, and corporation M constructively owns the stock of corporation O owned by B.

PAR. 8. Section 1.318-3 is amended by revising example (1) in paragraph (a) to read as follows:

§ 1.318-3 Estates, trusts, and options.

(a) * * *

Example (1). (a) A decedent's estate owns 50 of the 100 outstanding shares of stock of corporation X. The remaining shares are owned by three unrelated individuals, A, B, and C, who together own the entire interest in the estate. A owns 12 shares of stock of corporation X directly and is entitled to 50 percent of the estate. B owns 18 shares directly and has a life estate in the remaining 50 percent of the estate. C owns 20 shares directly and also owns the remainder interest after B's life estate.

(b) If section 318(a)(5)(C) applies (see paragraph (c)(3) of § 1.318-4), the stock of corporation X is considered to be owned as follows: the estate is considered as owning 80 shares, 50 shares directly, 12 shares constructively through A, and 18 shares constructively through B; A is considered as owning 37 shares, 12 shares directly, and 25 shares constructively (50 percent of the 50 shares owned directly by the estate); B is considered as owning 43 shares, 18 shares directly and 25 shares constructively (50 percent of the 50 shares owned directly by the estate); C is considered as owning 20 shares directly and no shares constructively. C is not considered a beneficiary of the estate under section 318(a) since he has no direct present interest in the property held by the estate nor in the income produced by such property.

(c) If section 318(a)(5)(C) does not apply, A is considered as owning nine additional shares (50 percent of the 18 shares owned constructively by the estate through B), and B is considered as owning six additional shares (50 percent of the 12 shares owned constructively by the estate through A).

* * * * *

PAR. 9. Section 1.318-4 is amended to read as follows:

§ 1.318-4 Constructive ownership as actual ownership; exceptions.

(a) *In general.* Section 318(a)(5)(A) provides that, except as provided in section 318(a)(5)(B) and (C), stock constructively owned by a person by reason of the application of section 318(a)(1), (2), (3), or (4) shall be considered as actually owned by such person for purposes of applying section 318(a)(1), (2), (3), and (4). For example, if a trust owns 50 percent of the stock of corporation X, stock of corporation Y owned by corporation X which is attributed to the trust may be further attributed to the beneficiaries of the trust.

(b) *Constructive family ownership.* Section 318(a)(5)(B) provides that stock constructively owned by an individual by reason of ownership by a member of his family shall not be considered as owned by him for purposes of making another family member the constructive owner of such stock under section 318(a)(1). For

example, if F and his two sons, A and B, each own one-third of the stock of a corporation, under section 318(a)(1), A is treated as owning constructively the stock owned by his father but is not treated as owning the stock owned by B. Section 318(a)(5)(B) prevents the attribution of the stock of one brother through the father to the other brother, an attribution beyond the scope of section 318(a)(1) directly.

(c) *Reattribution.* (1) Section 318(a)(5)(C) provides that stock constructively owned by a partnership, estate, trust, or corporation by reason of the application of section 318(a)(3) shall not be considered as owned by it for purposes of applying section 318(a)(2) in order to make another the constructive owner of such stock. For example, if two unrelated individuals are beneficiaries of the same trust, stock held by one which is attributed to the trust under section 318(a)(3) is not reattributed from the trust to the other beneficiary. However, stock constructively owned by reason of section 318(a)(2) may be reattributed under section 318(a)(3). Thus, for example, if all the stock of corporations X and Y is owned by A, stock of corporation Z held by X is attributed to Y through A.

(2) Section 318(a)(5)(C) does not prevent reattribution under section 318(a)(2) of stock constructively owned by an entity under section 318(a)(3) if the stock is also constructively owned by the entity under section 318(a)(4). For example, if individuals A and B are beneficiaries of a trust and the trust has an option to buy stock from A, B is considered under section 318(a)(2)(B) as owning a proportionate part of such stock.

(3) Section 318(a)(5)(C) is effective on and after August 31, 1964, except that for purposes of sections 302 and 304 it does not apply with respect to distributions in payment for stock acquisitions or redemptions if such acquisitions or redemptions occurred before August 31, 1964.

PAR. 10. Section 1.382(a) is amended by revising section 382(a)(3) and by adding an historical note. These amended and added provisions read as follows:

§ 1.382(a) Statutory provisions; special limitations on net operating loss carryovers; purchase of a corporation and change in its trade or business.

SEC. 382. *Special limitations on net operating loss carryovers*—(a) *Purchase of a corporation and change in its trade or business.* * * *

(3) *Attribution of ownership.* Section 318 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50-percent limitation contained therein.

* * * * *

[Sec. 382(a) as amended by sec. 4, Act of Aug. 31, 1964 (Pub. Law 88-554, 78 Stat. 762)]

PAR. 11. Section 1.382(a)-1(a)(2) is amended to read as follows:

§ 1.382(a)-1 Purchase of a corporation and change in its trade or business.

(a) *In general.* * * *

(2) For purposes of this section, (i) section 318(a) shall apply in determining ownership of stock, except that section 318(a)(2)(C) and (3)(C) shall be applied without regard to the 50-percent limitation contained therein, and (ii) stock acquired by the exercise of an option shall be considered as having been acquired on the date the option was acquired. Thus, if A acquires on December 15, 1959, an option to purchase 50 percent of the outstanding stock of X Corporation and if A acquires the stock by exercising the option on January 15, 1961, A will be considered as having purchased the stock on December 15, 1959.

* * * * *

PAR. 12. Section 1.856 is amended by revising section 856(d) and by revising the historical note. These amended provisions read as follows:

§ 1.856 Statutory provisions; definition of real estate investment trust.

SEC. 856. *Definition of real estate investment trust.* * * *

(d) *Rents from real property defined.* For purposes of paragraphs (2) and (3) of subsection (c), the term "rents from real property" includes rents from interests in real property but does not include—

(1) Any amount received or accrued, directly or indirectly, with respect to any real property, if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term "rents from real property" solely by reason of being based on a fixed percentage or percentages of receipts or sales);

(2) Any amount received or accrued directly or indirectly from any person if the real estate investment trust owns, directly or indirectly—

(A) In the case of any person which is a corporation, stock of such person possessing 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or 10 percent or more of the total number of shares of all classes of stock of such person; or

(B) In the case of any person which is not a corporation, an interest of 10 percent or more in the assets or net profits of such person; and

(3) Any amount received or accrued, directly or indirectly, with respect to any real property, if the real estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income. For purposes of this paragraph, the term "independent contractor" means—

(A) A person who does not own, directly or indirectly, more than 35 percent of the shares, or certificates of beneficial interest, in the real estate investment trust, or

(B) A person, if a corporation, not more than 35 percent of the total combined voting power of whose stock (or 35 percent of the total shares of all classes of whose stock), or, if not a corporation, not more than 35 percent of the interest in whose assets or net profits is owned, directly or indirectly, by one or more persons owning 35 percent or more of the shares or certificates of beneficial interest in the trust.

For purposes of paragraphs (2) and (3), the rules prescribed by section 318(a) for determining the ownership of stock shall apply in determining the ownership of stock, assets, or net profits of any person; except that "10 percent" shall be substituted for "50 percent" in subparagraph (C) of sections 318(a)(2) and 318(a)(3).

[Sec. 856 as added by sec. 10(a), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1004); amended by sec. 4, Act of Aug. 31, 1964 (Pub. Law 88-554, 78 Stat. 762)]

PAR. 13. Paragraph (b)(4) of § 1.856-4 is amended to read as follows:

§ 1.856-4 Rents from real property.

* * * * *

(b) *Amounts not includible as rent.* * * *

(4) *Attribution rules.* Paragraphs (2) and (3) of section 856(d) relate to direct or indirect ownership of stock, assets, or net profits by the persons described therein. For purposes of determining such direct or indirect ownership, the rules prescribed by section 318(a) (for determining the ownership of stock) shall apply except that "10 percent" shall be substituted for "50 percent" in section 318(a)(2)(C) and (3)(C).

PAR. 14. Section 1.6038 is amended by revising section 6038(d)(1), and by revising the historical note. These amended provisions read as follows:

§ 1.6038 Statutory provisions; information with respect to certain foreign corporations.

SEC. 6038. *Information with respect to certain foreign corporations.* * * *

(d) *Definitions.* For purposes of this section—

(1) *Control.* A person is in control of a corporation if such person owns stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or more than 50 percent of the total value of shares of all classes of stock, of a corporation. If a person is in control (within the meaning of the preceding sentence) of a corporation which in turn owns more than 50 percent of the total combined voting power of all classes of stock entitled to vote of another corporation, or owns more than 50 percent of the total value of the shares of all classes of stock of another corporation, then such person shall be treated as in control of such other corporation. For purposes of this paragraph, the rules prescribed by section 318(a) for determining ownership of stock shall apply; except that—

(A) Subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person, and

(B) In applying subparagraph (C) of section 318(a)(2), the phrase "10 percent" shall be substituted for the phrase "50 percent" used in subparagraph (C).

* * * * *

[Sec. 6038 as added by sec. 6, Act of Sept. 14, 1960 (Pub. Law 86-780, 74 Stat. 1014); amended by sec. 20(a), Rev. Act 1962 (76 Stat. 1059); sec. 4, Act of Aug. 31, 1964 (Pub. Law 88-554, 78 Stat. 762)]

PAR. 15. Paragraph (c)(3) of § 1.6038-2 is amended to read as follows:

§ 1.6038–2 **Information returns required of U.S. persons with respect to annual accounting periods of certain foreign corporations beginning after December 31, 1962.**

* * * * *

(c) *Attribution rules.* * * *

(3) If 10 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, section 318(a)(2)(C) shall apply.

* * * * *

[F.R. Doc. 68–10180; Filed, Aug. 22, 1968; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER M—ANIMALS

PART 931—LABORATORY ANIMALS IN DOD RESEARCH

Part 931 is revised to read as follows:

Sec.
931.1 Purpose.
931.2 References.
931.3 Definitions.
931.4 Implementing policy.
931.5 Release of information.
931.6 Registration and inspection.

AUTHORITY: The provisions of this Part 931 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; DOD Instruction 3216.1, Aug. 7, 1967.

SOURCE: AFR 169–2, Oct. 27, 1967.

§ 931.1 Purpose.

This part states the responsibilities, policies, and procedures for the care of experimental animals in Air Force research. This part applies to all Air Force activities, organizations, units, and research facilities, and to all groups or persons receiving funds for Air Force research involving animal experimentation.

§ 931.2 References.

(a) Public Law 89–544, "Laboratory Animal Welfare Act," August 24, 1966.

(b) "Laboratory Animal Welfare," Agricultural Research Service, Department of Agriculture. F.R. vol. 32, No. 37, February 24, 1967.

(c) "Guide for Laboratory Animal Facilities and Care," 1965, prepared by the Committee on Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council.

(d) AFM 163–5, "Care and Management of Laboratory Animals."

§ 931.3 Definitions.

(a) Animals: Any live dog, cat, nonhuman primate, guinea-pig, hamster, or rabbit.

(b) Laboratory Animal: Any animal defined in subparagraph (a) this section, used in support of Air Force research, research laboratory operations, development, tests, experiments, and evaluation programs.

(c) Research Facility: Any school, institution, organization, or person that uses or intends to use dogs or cats in research, tests, or experiments, and that:

(1) Purchases or transports dogs or cats in commerce, or

(2) Receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments with animals.

(d) Dealer: Any person who for compensation or profit delivers for transportation, or transports, except as a common carrier, buys or sells dogs or cats in commerce for research purposes.

§ 931.4 Implementing policy.

(a) The Department of Agriculture has published regulations and standards on Laboratory Animal Welfare in accordance with Public Law 89–544. These regulations and standards require:

(1) Licensing of dealers.
(2) Registration of research facilities.
(3) Maintenance of records.
(4) Identification of dogs and cats.
(5) Compliance by dealers and research facilities, including laboratory animal facilities of the United States, with the minimum standards for the humane handling care, treatment and transportation of various categories of animals.

(b) The fundamental Air Force policy provides that animals intended for use in research are provided humane care and treatment.

(1) In all research and development programs sponsored or performed by the Air Force involving the use of animals, the standards for humane handling, care, treatment, and transportation established by the Secretary of Agriculture in "Laboratory Animal Welfare" and in the "Guide for Laboratory Animal Facilities and Care" will be observed. In case of conflict between the standards, the higher standard will be used.

(2) Dogs and cats used in research and development programs performed or sponsored by the Air Force shall be purchased or otherwise acquired from a person holding a valid dealer's license issued by the Secretary of Agriculture pursuant to § 931.2b of this title except as exempted by Public Law 89–544.

(c) All Air Force sponsored grants and contracts involving laboratory animals will require compliance with directives cited by § 931.4b of this title and will contain a clause citing the referenced directives.

§ 931.5 Release of information.

(a) The timely release of information on experiments using laboratory animals tends to improve public understanding and acceptance. The results often help to solve military problems and contribute to improved human health and welfare of man and his domestic animals.

(b) The release of information on experiments involving animals prior to the actual accomplishment of the experiment should be the exception rather than the rule.

(c) Material proposed for release to both the scientific community and the public will contain full information relevant to humane procedures used, and other evidence of excellent animal care by reference to such items as the observance of the principles enunciated in the "Guide for Laboratory Animal Facilities and Care," the use of anesthesia, and other measures.

§ 931.6 Registration and inspection.

The Air Force is not required to register with the Secretary of Agriculture or to permit inspection of animals or records by the Department of Agriculture.

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. 68–10149; Filed, Aug. 22, 1968; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. In § 3.251(a)(1), subdivisions (i), (ii), and (iii) are amended to read as follows:

§ 3.251 Income of parents; dependency and indemnity compensation.

(a) *Annual income limitation.* (1) Dependency and indemnity compensation is not payable to a parent whose annual income exceeds the following limitations:

(i) $1,800 ($2,000 effective Jan. 1, 1969), one parent alone;

(ii) $1,800 ($2,000 effective Jan. 1, 1969), separately, two parents not living together;

(iii) $3,000 ($3,200 effective Jan. 1, 1969), combined income, two parents living together or remarried parent living with spouse.

* * * * *

2. In § 3.252, paragraphs (a) and (b) are amended to read as follows:

§ 3.252 Annual income; pension; World War I—and later wars.

(a) *Annual income limitation; protected pension.* Where the right to pension under laws in effect prior to June 30, 1960, is protected under § 3.956, pension is not payable to an unmarried veteran, or to a widow without a child, or to or on account of a child, whose annual income exceeds $1,400 ($1,600 effective Jan. 1, 1969); or to a married veteran or a veteran with a child, or to a widow with a child, whose annual income exceeds $2,700 ($2,900 effective Jan. 1, 1969).

(b) *Annual income and net worth limitation; Public Law 86-211 (73 Stat.*

432). Pension is not payable to an unmarried veteran, or to a widow without a child, whose annual income exceeds $1,800 ($2,000 effective Jan. 1, 1969), or to or on account of a child whose annual income (excluding earned income of a child-claimant) exceeds $1,800; or to a married veteran or a veteran with a child, or to a widow with a child, whose annual income exceeds $3,000 ($3,200 effective Jan. 1, 1969); or to a veteran, widow or child if it is reasonable that some part of the claimant's estate be consumed for his maintenance. Where a veteran and spouse are living together, the separate income of the spouse will be considered as the veteran's income, as provided in § 3.262(b) (38 U.S.C. 521, 541, 542, and 543).

* * * * *

3. In § 3.400(j), subparagraph (5) is added to read as follows:

§ 3.400 General.

* * * * *

(j) *Election of Veterans Administration benefits (§ 3.700 series)* * * *.

(5) January 1, 1969, as to pension payable under Public Law 86–211 (73 Stat. 432), as amended by Public Law 90–275 (82 Stat. 64), if there was basic eligibility for pension on June 30, 1960, under the law in effect on that date and an election is filed prior to May 1, 1969.

* * * * *

4. In § 3.460(c), subparagraph (3) is added to read as follows:

§ 3.460 Death pension.

* * * * *

(c) *World War I or later wartime service.* * * *

(3) On and after January 1, 1969, where pension is payable under 38 U.S.C. 541 at the rates provided by Public Law 90–275 (82 Stat. 64), the shares for the widow and children will be not less than the rate which would be authorized under subparagraph (2) of this paragraph. If a greater total rate is available, the additional amount will be payable to the widow or children or will be divided.

5. In § 3.500, paragraphs (f) and (h) are amended to read as follows:

§ 3.500 General.

* * * * *

(f) *Contested claims (§ 3.402(b) and § 19.117 of this chapter).* Date of last payment.

* * * * *

(h) *Dependency of parent (38 U.S.C. 3012; Public Law 90–275; §§ 3.4 (a), (b) (2), 3.250, 3.551(b) and 3.660).* See § 3.660.

* * * * *

6. In § 3.551, that portion of paragraph (c) preceding subparagraph (1) is amended to read as follows:

§ 3.551 Reduction because of hospitalization.

* * * * *

(c) *Reduction after 2 months.* Where pension is being paid to a veteran under 38 U.S.C. 521(b), or to a Spanish-American War veteran or an Indian war veteran who was not receiving pension for June 30, 1960, or who is receiving pension under 38 U.S.C. 521, the pension for a veteran who has neither wife nor child, or who, though married, is receiving pension as prescribed by 38 U.S.C. 521(b) because not living with or reasonably contributing to the support of his spouse shall continue at the full monthly rate until the end of the second calendar month (except as provided in paragraph (d) of this section), following the month of admission for hospitalization. The rate payable effective the first of the third calendar month will be an amount not in excess of $30 monthly. Where the veteran has been discharged from a period of hospitalization of not less than 2 full calendar months and is readmitted within 6 months, the award will be reduced effective the date of readmission.

* * * * *

7. In § 3.660(a), subparagraphs (2) and (3) are amended to read as follows:

§ 3.660 Dependency, income and estate.

(a) *Reduction or discontinuance.* * * *

(2) *Contingency.* Except as provided in subparagraph (3) of this paragraph, where reduction or discontinuance of a running award is required because of an increase in income, which increase could not reasonably have been anticipated based on the amount actually received from that source the year before, or because of an increase in corpus of estate or net worth, which occurred on or after April 1, 1968, or because dependency of a parent ceased on or after that date solely by reason of an increase in income, the award will be reduced or discontinued effective the last day of the calendar year in which the increase occurred or dependency ceased. Where there is no material increase in countable income, reduction or discontinuance because of a change in marital status or the status of dependents will be effective the last day of the month in which the change occurred (38 U.S.C. 3012; Public Law 90–275, 82 Stat. 64).

(3) *Social Security Amendments of 1967.* Where a payee was receiving or entitled to receive pension or dependency and indemnity compensation for March 31, 1968, and reduction or discontinuance of the award would be required solely as the result of an increase in monthly old age and survivor's insurance or disability insurance benefits provided by the Social Security Amendments of 1967 (Public Law 90–248, 81 Stat. 821), the effective date of reduction or discontinuance will be subject to the provisions of this subparagraph. The term "prior monthly rate" means the rate otherwise payable for March 1968, the rate payable for the month before the effective date of section 3, Public Law 90–275 (82 Stat. 64), as provided by section 6(b) of that law. The initial Social Security increases which were effective February 1968, were payable in March 1968.

(i) For the balance of calendar year 1968 and for calendar year 1969, the prior monthly rate will be paid;

(ii) For the calendar year 1970, payment will be made at the monthly rate for the next $100 annual income increment or limitation higher than the increment or maximum annual income limitation corresponding to the prior monthly rate;

(iii) For each successive calendar year, payment will be made at the monthly rate for the next $100 annual income limitation higher than the one applied for the preceding year, until the rate corresponding to the actual countable income is reached (Public Law 90–275).

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective date of approval.

Approved: August 15, 1968.

By direction of the Administrator.

[SEAL] A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 68–10170; Filed, Aug. 22, 1968; 8:46 a.m.]

PART 8—NATIONAL SERVICE LIFE INSURANCE

Eligibility and Health Requirements

1. In § 8.0(b), subparagraph (2) is amended to read as follows:

§ 8.0 Eligibility.

* * * * *

(b) *Applications for insurance under section 722(a) of Title 38, United States Code.* * * *

(2) An application for insurance under this paragraph should be made on the form prescribed therefor, but any written statement which in substance meets the requirements of this paragraph may be considered an application. If the applicant is mentally incompetent, the application may be made (i) by the guardian, and, if required under the State law, after the court shall have authorized the fiduciary to make such application; or (ii) by any one acting on behalf of the veteran if the evidence shows that the veteran will qualify for waiver of premiums under 38 U.S.C. 712, in which event the beneficiary of any insurance issued will be the estate of the insured.

* * * * *

2. In § 8.23, paragraph (b) is amended to read as follows:

§ 8.23 Health requirements.

National Service life insurance on any plan may be reinstated if application and tender of premiums are made:

* * * * *

(b) After expiration of the 6-month period mentioned in paragraph (a) of this section, provided applicant is in good health (§ 8.1) on the date of application and tender of premiums and furnishes satisfactory evidence. If the insurance to be reinstated was issued under § 8.0 (b), (d) (2) (i), or (d) (2) (ii) and application is made within 1 year of the date of lapse, any service-connected disability existing at the time the insurance was issued will be waived

for the purpose of reinstatement (including natural progression of the condition since time of issuance). If the insurance to be reinstated was issued under § 8.0(d)(2)(iii) and application is made within 1 year of the date of lapse, any non-service-connected disability, or service-connected disability which combined with a non-service-connected disability rendered the insured uninsurable as of October 13, 1964, will be waived for the purpose of reinstatement (including natural progression).

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective the date of approval.

Approved: August 14, 1968.

By direction of the Administrator.

[SEAL] A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 68-10171; Filed, Aug. 22, 1968; 8:46 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Interest Rates and Obtaining Supplies of GSA and Standard Forms

Section 101-47.304-4(a) is revised to delete the specific rates of interest to be charged in credit sales to permit greater flexibility in adjusting such rates to fluctuating commercial rates. Section 101-47.4900 is revised to inform agency field offices where they can obtain the GSA and Standard forms illustrated in Subpart 101-47.49.

Subpart 101-47.3—Surplus Real Property Disposal

Section 101-47.304-4(a) is revised to read as follows:

§ 101-47.304-4 Invitation for offers.

* * * * *

(a) When the disposal agency has determined that the sale of specific property on credit terms is justified, the invitation shall provide for submission of offers on the following terms:

(1) Offers to purchase of less than $2,500 shall be for cash.

(2) When the purchase price is $2,500, or more but less than $10,000, a cash downpayment of not less than 25 percent shall be required with the balance due in 8 years or less.

(3) When the purchase price is $10,000 or more, a cash downpayment of not less than 20 percent shall be required with the balance due in 10 years or less.

(4) The purchaser shall furnish a promissory note secured by the purchase money mortgage or deed of trust on the property, whichever the Government determines to be appropriate.

(5) Payment will be in equal quarterannual installments of the principal together with interest on the unpaid balance.

(6) Interest on the unpaid balance will be at the General Services Administration's established interest rate.

(7) Credit sales negotiated with a State, the Commonwealth of Puerto Rico, the Virgin Islands, political subdivisions thereof, or tax-supported agencies therein, pursuant to section 203(e)(3)(H) of the Act, shall provide for interest on the unpaid balances at the lesser rate prescribed for loans to public bodies by the General Services Administration.

* * * * *

Subpart 101-47.49—Illustrations

Section 101-47.4900 is revised to read as follows:

§ 101-47.4900 Scope of subpart.

This subpart sets forth certain forms and illustrations referred to previously in this part. GSA forms may be obtained from the appropriate General Services Administration regional office, Regional Property Management and Disposal Service. Standard Forms may be obtained from the nearest GSA supply depot.

(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: August 20, 1968.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

[F.R. Doc. 68-10184; Filed, Aug. 22, 1968; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1001–1004, 1015, 1016]

[Docket Nos. AO–14–A45 et al.]

MILK IN THE MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE AND CERTAIN OTHER MARKETING AREAS

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

7 CFR Part	Marketing area	Docket No.
1001	Massachusetts-Rhode Island-New Hampshire.	AO–14–A45.
1002	New York-New Jersey	AO–71–A57.
1003	Washington, D.C.	AO–293–A20.
1004	Delaware Valley	AO–160–A38.
1015	Connecticut	AO–305–A22.
1016	Upper Chesapeake Bay	AO–312–A17.

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), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the fifth 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)).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at New York, N.Y., on July 25–26, 1968, pursuant to notice thereof which was issued July 17, 1968 (33 F.R. 10403).

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

1. Increasing the Class I price level under each of the six northeastern orders.

FINDINGS AND CONCLUSIONS

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

The specified Class I price under each of the six northeastern Federal orders should be increased by 24 cents. Such action is necessary to effect price increases to producers under the northeastern orders comparable with price increases effected under orders in the North Central region generally on July 1, and thus restore the interregional price alignment which has been maintained through the several emergency Class I price actions which have been initiated on a national basis during the past several years in an effort to stem the decline in milk production nationally.

Federal milk orders outside the Northeast employ manufacturing milk values as a basic price to which a specified differential is added to arrive at the Class I price. The differential varies as between markets to the end that the variation in price as between markets generally reflects the difference in transportation costs in moving milk from the Minnesota-Wisconsin alternative supply area. The northeastern orders, on the other hand, have over an extended period of years employed economic type pricing formulas for the purpose of establishing Class I prices.

Milk production in the United States has been declining since 1965. This decline in production has reflected an accelerated decline in the number of dairy farmers and dairy cattle and is attributable to factors such as high prices for cull cattle, better returns from alternative farm enterprises, more attractive off-farm opportunities for labor, increased costs of farm labor and equipment, and increased taxes and interest rates.

In an effort to stem the downward trend in milk production the Department has taken a series of price actions during the period 1966, 1967, and 1968 under both the dairy price support program and the Federal milk order program. However, the changes in price support levels, flooring of the basic (manufacturing milk) price, and/or specified changes in the differentials over the basic price, which procedures have been employed to raise Class I prices generally under Federal orders outside the Northeast, have not been applicable under the northeastern orders. In an effort to extend identical price adjustments to the northeastern markets the Department initially "floored" certain of the factors in the respective formulas above their then current levels and in subsequent actions inactivated the formulas entirely in favor of specified prices. However, the results of these actions have varied somewhat as between markets to the end that interorder price relationships which existed at the beginning of the period of emergency price adjustments have not been uniformly retained. However, action taken July 1, which increased the New York-New Jersey price by 10 cents to $6.49 through April 1969, substantially restored interorder price relationship among the northeastern orders.

For many years Class I prices in a number of Federal order markets in Iowa, Wisconsin, Illinois, and Missouri were tied to the Chicago order Class I price. During this period the supply-demand adjustment factor in the Class I pricing formula was minus 24. This adjustment thus reduced the Class I price in these markets by 24 cents. When the Chicago order was terminated the effect of the supply-demand adjustor on prices in those markets in which the Class I price had been tied to Chicago was continued through the equivalent price determination provisions in the respective orders.

The new Chicago order made effective July 1, 1968, contains no supply-demand adjustment provision. To maintain interorder price alignment between the Chicago market and the surrounding Federal order markets it was necessary that prices in these markets be increased by 24 cents, which was related to the equivalent price determination factor, effective July 1, first by suspension action and subsequently by amendment. Hence, prices in the large midwestern area which produces the bulk of the reserve milk supplies for the country have generally been increased by 24 cents. This has substantially reduced the differential between midwestern and northeastern Class I prices. For example, the New York-New Jersey Class I price which in 1965 averaged $1.26 above the Chicago price is currently only 96 cents above such price. Without some adjustment in northeastern prices this relationship will continue.

Producer cooperatives in the Northeast contend that the amount of price adjustment made effective in midwestern markets generally on July 1 was 26 cents. However, this price adjustment as previously indicated reflected only the removal of the effect of the supply-demand adjustment applicable under the old Chicago order, which amounted to 24 cents.

Proponents asked that a similar adjustment be made in each of the northeastern Federal order markets, contending that such adjustment was essential to restore appropriate interregional price alignment and assure a continuing adequate milk supply. In support of their position they sought to demonstrate that, while the downward trend in milk production for the country as a whole appears to be stabilizing, production in the Northeast continues to decline. In addition in certain segments of the Northeast

adverse weather has severely affected forage and grain production with the result that adequate winter feed supplies, particularly in Vermont the primary supply area for the Massachusetts-Rhode Island-New Hampshire market, are in doubt. Handlers, except those in the Massachusetts-Rhode Island-New Hampshire market, generally opposed a further price increase at this time contending that milk supplies are fully adequate at this time.

The emergency price actions taken throughout the Federal order system in conjunction with dairy price support actions have unquestionably helped to slow the rate of decline in milk production generally. However, the situation in the Northeast where about one-fifth of the Nation's supply is produced continues unfavorable. In the 11 Northeastern States combined (from Maine to Maryland), production declined 3.1 percent from 1965 to 1966, essentially the same as the country as a whole. During 1967 production in the Northeast was 2.1 percent below that for 1966 while nationally production was off only 0.5 percent. Thus far in 1968 national milk production has averaged 1.7 percent below that for 1967. In June production in the Northeast was 2.3 percent below June 1967 while production in the remainder of the country was off only 1 percent.

The New York-New Jersey market is by far the largest of the markets in the Northeast. About 60 percent of the producers supplying the six northeast markets are associated with that market. Because of its size and location it is very much interrelated with the other Federal order markets. On the northern side the New York-New Jersey milkshed overlaps the milkshed for the New England markets. Over the years there has been a general shift of New York-New Jersey producers to the New England markets, essentially in response to the blend prices which prevail under the respective orders in the eastern region of New York State. In Pennsylvania there is an extensive overlapping of the New York-New Jersey, Delaware Valley, and Upper Chesapeake Bay milksheds. In turn the Upper Chesapeake Bay and Washington, D.C., supply areas are interrelated.

As a result of the marketwide pooling arrangements adopted under the Delaware Valley order effective June 1, 1967, there has been a substantial shifting of supplies and sales from the New York-New Jersey order to the Delaware Valley order. These changes have significantly changed the supply-demand balances in individual markets. Supplies in the Delaware Valley market have thus increased 30.7 percent from May 1967 to May 1968 while supplies on the New York-New Jersey market dropped 8 percent in the same period. Obviously the situation in individual markets, however, is not reflective of the situation in the region generally.

Producers continue to drop out of production in the Northeast Federal order market at a rapid rate. During May 1968 there were 2,872 fewer producers supplying these markets than in May 1967 when 52,992 producers were on these markets. Considering that about 400 producers were added in the interim through the expansion of the Massachusetts-Rhode Island order into New Hampshire on December 1, 1967; there was a loss of about 6 percent in producer numbers in the last year. This decline in producer numbers was nearly as great as during the previous 12-month period (May 1966 to May 1967) when 3,551 dropped off these markets. This continued trend poses a very serious threat to the adequacy of a milk supply for consumers in the Northeast.

Virtually all of the milk produced in the Northeast is associated with fluid milk markets, mostly Federal order markets. Of the 24.2 billion pounds of milk produced in the eleven northeastern States in 1967, 18.9 billion pounds was associated with the six Federal order markets. Since 1965 annual Federal order market receipts in the Northeast have declined 1.2 billion pounds. In the first half of this year receipts under the six orders were 236 million pounds less than during the first half of 1967.

The Class I utilization of producer milk under the orders has increased significantly since 1965. In the 1967 period of seasonally low production utilization in Class I reached 70.4 percent, 3.3 percent above the comparable percentage in 1965. Class I utilization each month this year has been higher than the corresponding month of 1967.

The continuing rise in production costs, the tight labor market and the alternative employment opportunities available to dairy farmers in the Northeast pose a serious threat to continuing adequacy of milk supplies in the region.

While, as handler representatives testified there are encouraging signs that the downward spiral in cow numbers in the Northeast is being stemmed in that dairy farmers as of January 1, 1967, kept greater numbers of heifers, this logically must be attributed to the fact that the emergency price actions which have been taken in some measure restored dairy farmers' confidence in the future of the industry. While dairy farmers in the Northeast have only limited alternative farming opportunities, in comparison with dairy farmers in other areas, their employment opportunities outside of agriculture are extremely favorable and this in conjunction with high land values and the great difficulty of employing competent help will strongly influence them in deciding whether to continue dairying. It is essential therefore at this time that the general interregional price alignment that has been maintained between the Northeast and midwestern alternative supply areas during the critical past few years be maintained. To accomplish this end the specified Class I price in each of the six northeastern markets which extends through April 1969 must be increased by 24 cents.

Handlers' basic concern in the matter of further Class I price increases at this time was possible loss of sales to imitation products and cost with respect to contract sales already negotiated without escalator clauses.

The matter of the treatment of imitation products was an issue considered at a national hearing on which a decision is still pending.

The Act requires the uniform application of the order provisions and there is no basis for pricing fluid milk disposed of under Government contracts at a different level than that otherwise disposed of for fluid consumption. Similarly, there is no basis for a variation in the price of milk to handlers dependent on the terms of the contract.

Handlers generally are obviously aware of the unfavorable production situation existing throughout the country and of the fact that the Department has taken repeated actions to ameliorate the situation both under the price support and Federal milk order program. The Department is charged with the responsibility of establishing prices under Federal milk marketing orders which will insure an adequate supply of milk for fluid use and accordingly, must take the necessary price actions to accomplish this end.

One handler representative, while conceding that some price increase was needed, proposed that the increase be limited to an amount which would permit handlers to raise resale prices one-half cent per quart and at the same time recover some of the loss which otherwise would necessarily occur on prior contracts without escalator clauses. Obviously, such a procedure would have varying impact on handlers, dependent on the volume involved in such contracts by individual handlers. In any event, in consideration of the overriding need for a Class I price increase to insure a continuing adequate milk supply it is not possible to compromise the amount of the adjustment for the purpose of accommodating handlers in their contract sales.

The amendatory language to implement a 24-cent price increase under each of the respective orders is hereinafter set forth. No amendments are required for the Washington, D.C., and Upper Chesapeake Bay orders for which Class I prices are maintained in fixed alignment with the Delaware Valley Class I price.

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 request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

RULINGS ON THE EXCEPTIONS TO THE RULING OF THE HEARING EXAMINER

Certain handlers in their brief filed in this proceeding excepted to the hearing officer's denial of the request made on the record in their behalf that a separate hearing be held in Philadelphia to receive evidence re the Class I price relative to the milk in the areas in which handlers in Order 4 receive their supplies.

After full consideration of the rulings of the examiner, his rulings in this matter are hereby affirmed and the request for a separate hearing in the Philadelphia market is hereby denied.

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 orders 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 agreements and the orders 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 areas, and the minimum prices specified in the proposed marketing agreements and the orders, 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 agreements and the orders, 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 commerical activity specified in, marketing agreements upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENTS AND ORDERS AMENDING THE ORDERS

The following order amending the orders as amended regulating the handling of milk in the Massachusetts-Rhode Island-New Hampshire, Connecticut, New York-New Jersey and Delaware Valley marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended:

PART 1001—MILK IN MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE MARKETING AREA

In § 1001.60, paragraph (d) is revised to read as follows:

§ 1001.60 Class I price.

* * * * *

(d) The Class I price shall be the result, rounded to the nearest full cent, of the economic index price determined under paragraph (b) of this section, multiplied by the supply-demand adjustment factor determined under paragraph (c) of this section, except that from the effective date hereof the Class I price each month shall be $6.91 through April 1969.

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

In §1002.50, the text of paragraph (a) preceding subparagraph (1) is revised to read as follows:

§ 1002.50 Class prices.

* * * * *

(a) For Class I–A milk the price during each month shall be a price computed pursuant to subparagraphs (1) through (10) of this paragraph, except that from the effective date hereof the Class I–A price each month shall be $6.73 through April 1969.

* * * * *

PART 1004—MILK IN DELAWARE VALLEY MARKETING AREA

In § 1004.50, the text of paragraph (a) preceding subparagraph (1), is revised as follows:

§ 1004.50 Class prices.

* * * * *

(a) *Class I milk.* Through April 1969, for each month in each calendar quarter, the price per hundredweight of Class I milk shall be the price computed for each quarter pursuant to subparagraphs (1) through (4) of this paragraph, except that from the effective date hereof through April 1969 the Class I price each month shall be $7.17.

* * * * *

PART 1015—MILK IN CONNECTICUT MARKETING AREA

In § 1015.60, paragraph (d) is revised to read as follows:

§ 1015.60 Class I price.

* * * * *

(d) The Class I price shall be the result, rounded to the nearest full cent, of the economic index price determined under paragraph (b) of this section, multiplied by the supply-demand adjustment factor determined under paragraph (c) of this section, plus 40 cents, except that from the effective date hereof the Class I price each month shall be $7.31 through April 1969.

* * * *

Signed at Washington, D.C., on August 20, 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68–10165; Filed, Aug. 22, 1968; 8:46 a.m.]

[7 CFR Part 1064]

[Docket No. AO–23–A36]

MILK IN GREATER KANSAS CITY MARKETING AREA

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

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), 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 Greater Kansas City 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 5th 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)).

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 Kansas City, Mo., on August 1, 1968, pursuant to notice thereof which was issued July 24, 1968 (33 F.R. 10748).

The material issue on the record of the hearing related to a proposed increase in the Class I price of 24 cents per hundredweight.

FINDINGS AND CONCLUSIONS

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

The Class I price as provided in § 1064.51 should be increased by an additional 24 cents.

A new Chicago Regional order which became effective July 1, 1968, established a new Class I price level for the 3-State area covered by such regulation. For the five areas merged with Chicago, which

were previously identified as the Milwaukee, Madison, Northeastern Wisconsin, Rock River Valley, and Northwestern Indiana areas, this new price represented an increase of about 24 cents per hundredweight.

Following the announcement of the higher price level in the Chicago Regional area, hearings were held to consider Class I prices in surrounding markets so as to reestablish the historical price relationships with Chicago. Class I prices in these markets were raised by suspension action for July 1968, and amendments increasing Class I prices in these markets by 24 cents were made effective August 1, 1968.

Among the markets where the 24-cent increase has been granted are four Iowa markets northeast of the Kansas City area and four Illinois and Missouri markets east and south of Kansas City. The Class I sales in these eight markets are three and one-half times the Class I sales of Kansas City handlers. Producer milk deliveries to these markets are more than three and one-half times producer deliveries to the Kansas City market. Hence, an upward adjustment in the Class I price level in these markets has an important bearing on the Class I price level needed to maintain adequate milk supplies for the Kansas City area.

In recent months the supply of milk relative to Class I sales in the Kansas City market has been about the same as in these eight markets. During the first 5 months this year, 69 percent of producer deliveries in the Kansas City market were used in Class I, whereas 67 percent of deliveries were used in Class I in these other eight markets. Thus, the historical price relationship has tended to promote a slightly smaller margin of reserve in Kansas City than in these other markets. A lower Class I price in Kansas City relative to these other markets would tend to further diminish the Kansas City milk supply.

Milk production in Kansas and Missouri, States from which the Kansas City market draws most of its supply, has declined recently as much, or more than, the drop in total U.S. milk production. In June this year milk production in Kansas was down 3 percent from a year earlier. In Missouri production was down 2 percent and U.S. production was down 1.3 percent.

Also compared to the average for the previous five Junes, production in June 1968 was down 6 percent in Kansas, 11 percent in Missouri and 6 percent in the United States.

In order to maintain a milk supply in the Kansas City market which is adequate in relation to Class I sales, the Class I price level should be maintained at its historic level in relation to these markets where prices have been increased.

Two handlers who operate distributing plants in the Kansas City area opposed action to increase the Class I price in Kansas City prior to increasing Class I prices in certain other markets where such handlers sell Class I milk.

Nearly 20 percent of Kansas City Class I sales are made outside the Kansas City marketing area. About 8 percent of total Class I sales are disposed of on routes in other marketing areas. Handlers contend that if the Kansas City Class I price is raised without a corresponding increase in the Class I prices in these other markets, they will suffer a competitive price disadvantage.

Markets where Kansas City handlers make route sales (other than those where the 24-cent increase has been granted), are Central Arkansas, Eastern Colorado, Nebraska-Western Iowa, Neosho Valley, Oklahoma Metropolitan, and Wichita. Even with the 24-cent increase in the Kansas City Class I price, the Class I prices in all but two of these markets would exceed the Kansas City Class I price. Hence, some incentive will remain to move milk to these areas, although the order price differences would not be as great as heretofore.

The Kansas City Class I price based on the proposed $1.74 differential over the manufacturing milk price would exceed the present Class I price differentials of $1.60 in Nebraska-Western Iowa, and $1.54 in Neosho Valley. One handler distributes some milk in each of these areas but he also has extensive distribution in the Missouri counties lying between Kansas City and St. Louis. The 24-cent increase would maintain price alignment with St. Louis.

Our principal concern is to maintain an order price structure for each market which will secure an adequate supply for that market. In determining the price needed for a given market it is not necessary to consider holding such price at a level which will promote exports to other markets.

The handlers also proposed that the location price differential provisions be modified so as to raise the Class I price at plants in Doniphan County, Kans., and Buchanan County, Mo. Although this proposal was not listed in the hearing notice, the handlers contended that the Class I price issue encompassed this change. Handlers whose plants are located in these counties opposed the proposal and maintained that they were not informed by the hearing notice that such a proposal would be considered.

A substantial question is raised as to whether adequate notice was given and as to whether the record is complete on this issue. The handlers who proposed the higher price in these two counties requested that if it were found that notice was insufficient on which to consider the matter, the whole question of Class I price levels be deferred until a new notice could be issued and this hearing reopened on their proposal. For the reasons hereinafter set forth this request is denied.

Amendment action is needed as soon as possible on the issue of the Class I price level which was clearly set forth for consideration at the hearing. Therefore, the proposed amendment set forth herein should not be deferred.

Furthermore, the evidence supplied by proponents does not make out even a prima facie case for the proposal. The record fails to demonstrate any new basis for establishing a location differential other than the present one which was found appropriate in 1966 (see final decision issued Aug. 10, 1966, 31 F.R. 10800). The St. Joseph area which has a 10-cent lower Class I price is located 50 miles nearer to the surplus milk supply area of Northern Iowa, Minnesota, and Wisconsin than is Kansas City. No new evidence was offered to show that the 10-cent lower price is not appropriate under existing conditions of supply in relation to sales.

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 following order amending the order as amended regulating the handling of milk in the Greater Kansas City marketing area is recommended as the detailed and appropriate means by which

the foregoing conclusions may be carried out. 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:

Section 1064.51(a) is revised to read as follows:

§ 1064.51 Class prices.

* * * * *

(a) *Class I milk.* The Class I price shall be the basic formula price for the preceding month plus $1.54 and plus 20 cents through April 1969;

* * * * *

Signed at Washington, D.C., on August 20, 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-10187; Filed, Aug. 22, 1968; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

CATAHOULA NATIONAL WILDLIFE REFUGE, LA.

Hunting

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the Endangered Species Preservation Act of October 15, 1966 (80 Stat. 926, 16 U.S.C. 668aa), it is proposed to amend 50 CFR 32.21 by the addition of Catahoula National Wildlife Refuge, La., to the list of areas open to the hunting of upland game, as legislatively permitted.

It has been determined that the regulated hunting of upland game may be permitted as designated on the Catahoula National Wildlife Refuge without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.21 is amended by the following addition:

§ 32.21 List of open areas; upland game.

* * * * *

LOUISIANA

CATAHOULA NATIONAL WILDLIFE REFUGE

* * * * *

JOHN S. GOTTSCHALK,
Director, Bureau of
Sport Fisheries and Wildlife.

AUGUST 20, 1968.

[F.R. Doc. 68-10169; Filed, Aug. 22, 1968; 8:46 a.m.]

DEPARTMENT OF LABOR

Bureau of Labor Standards

[29 CFR Parts 1501, 1502, 1503]

SAFETY AND HEALTH REGULATIONS FOR SHIP REPAIRING, SHIPBUILDING, AND SHIPBREAKING

Notice of Proposed Rule Making

Pursuant to Section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941), I hereby propose to amend 29 CFR, Parts 1501, 1502, and 1503 as set forth below. The changes are proposed in view of the need to delineate the information to be obtained by the employer in order to meet the requirements of these parts.

Written data, views, or argument regarding the proposal may be filed by mail with the Director, Bureau of Labor Standards, U.S. Department of Labor, 400 First Street NW., Washington, D.C. 20210, within 60 days after this document is published in the FEDERAL REGISTER.

1. In 29 CFR 1501.57, paragraph (d) would be revised to read as follows:

§ 1501.57 Health and sanitation.

* * * * *

(d) The information which must be ascertained under paragraph (a) of this section includes information on all of the items listed below which are applicable to the specific product or material:

(1) Manufacturer's name, address, and telephone number.

(2) Chemical name and synonyms, trade name, chemical family, formula, and general description of single chemical, mixture of chemicals, or basic structural or process material.

(3) Chemical names of ingredients, such as but not limited to those of mixtures, such as paints and preservatives, of alloys, filler metals, and welding rods, of platings, and of abrasive blasting materials.

(4) Physical data, including Boiling Point, in degrees Fahrenheit; Vapor Pressure, in millimeters of mercury; Reid Vapor Pressure, in pounds per square inch absolute; Vapor Density of gas or vapor (air-1); Freezing Point, in degrees Fahrenheit; Solubility in water, in percent by weight; Specific Gravity of liquid (water-1); Percentage Volatile, by volume; and Evaporation Rate for liquids (ether-1).

(5) Fire and explosion hazard data, including Flash Point, in degrees Fahrenheit; Autoignition Temperature, in degrees Fahrenheit; Flammable Limits, in percent by volume in air; Suitable extinguishing media or agents; Special fire fighting procedures; and Unusual fire hazards.

(6) Health hazard data, including Threshold Limit Values, in millions of particles per cubic foot of air for dust, in milligrams of particulate per cubic meter of air for fumes, and in parts per million parts of air by volume for gases and vapors; Odor Threshold, in parts per million parts of air by volume; Toxic characteristics; Signs of poisoning; Short Exposure Tolerance, in parts per million parts of air by volume; and First aid exposure procedures.

(7) Reactivity data, including Stability; Compatability; Decomposition products; and Polymerization rate.

(8) Spill or leak procedures and precautions.

(9) Special precautions recommended, including respiratory protection; ventilation, such as local exhaust, mechanical, special, or other; personal protective equipment, including protective gloves, eye protection, and protective clothing.

(10) Handling and storage precautions.

The required information shall be entered on U.S. Department of Labor Form LSB OOS-4, "Hazardous Materials Data Sheet," or on an essentially similar form accepted by the Bureau of Labor Standards. The completed form shall be kept on file, available for inspection, for a period of at least 3 months from the date of the completion of the job.

* * * * *

2. In 29 CFR 1502.57, paragraph (d) would be revised to read as follows:

§ 1502.57 Health and sanitation.

* * * * *

(d) The information which must be ascertained under paragraph (a) of this section includes information on all of the items listed below which are applicable to the specific product or material:

(1) Manufacturer's name, address, and telephone number.

(2) Chemical name and synonyms, trade name, chemical family, formula, and general description of single chemical, mixture of chemicals, or basic structural or process material.

(3) Chemical names of ingredients, such as but not limited to those of mixtures, such as paints and preservatives, of alloys, filler metals, and welding rods, of platings, and of abrasive blasting materials.

(4) Physical data, including Boiling Point, in degrees Fahrenheit; Vapor Pressure, in millimeters of mercury; Reid Vapor Pressure, in pounds per square inch absolute; Vapor Density of gas or vapor (air-1); Freezing Point, in degrees Fahrenheit; Solubility in water,

in percent by weight; Specific Gravity of liquid (water-1); Percentage Volatile, by volume; and Evaporation Rate for liquids (ether-1).

(5) Fire and explosion hazard data, including Flash Point, in degrees Fahrenheit; Autoignition Temperature, by degrees Fahrenheit; Flammable Limits, in percent by volume in air; Suitable extinguishing media or agents; Special Fire fighting procedures; and Unusual fire hazards.

(6) Health hazard data, including Threshold Limit Values, in millions of particles per cubic foot of air for dust, in milligrams of particulate per cubic meter of air for fumes, and in parts per million parts of air by volume for gases and vapors; Odor Threshold, in parts per million parts of air by volume; Toxic characteristics; Signs of poisoning; Short Exposure Tolerance, in parts per million parts of air by volume; and First aid exposure procedures.

(7) Reactivity data, including Stability; Compatibility; Decomposition products; and Polymerization rate.

(8) Spill or leak procedures and precautions.

(9) Special precautions recommended, including respiratory protection; ventilation, such as local exhaust, mechanical, special, or other; personal protective equipment, including protective gloves, eye protection, and protective clothing.

(10) Handling and storage precautions.

The required information shall be entered on U.S. Department of Labor Form LSB 00S–4, "Hazardous Material Data Sheet," or on an essentially similar form accepted by the Bureau of Labor Standards. The completed form shall be kept on file, available for inspection, for a period of at least 3 months from the date of the completion of the job.

* * * * *

3. In 29 CFR 1503.57, paragraph (d) would be revised to read as follows:

§ 1503.57 **Health and sanitation.**

* * * * *

(d) The information which must be ascertained under paragraph (a) of this section includes information on all of the items listed below which are applicable to the specific product or material:

(1) Manufacturer's name, address, and telephone number.

(2) Chemical name and synonyms, trade name, chemical family, formula, and general description of single chemical, mixture of chemicals, or basic structural or process material.

(3) Chemical names of ingredients, such as but not limited to those of mixtures, such as paints and preservatives, of alloys, filler metals, and welding rods, of platings, and of abrasive blasting materials.

(4) Physical data, including Boiling Point, in degrees Fahrenheit; Vapor Pressure, in millimeters of mercury; Reid Vapor Pressure, in pounds per square inch absolute; Vapor Density of gas or vapor (air=1); Freezing Point, in degrees Fahrenheit; Solubility in water, in percent by weight; Specific Gravity of liquid (water=1); Percentage Volatile, by volume; and Evaporation Rate for liquids (ether=1).

(5) Fire and explosion hazard data, including Flash Point, in degrees Fahrenheit; Autoignition Temperature, in degrees Fahrenheit; Flammable Limits, in percent by volume in air; Suitable extinguishing media or agents; Special fire fighting procedures; and Unusual fire hazards.

(6) Health hazard data, including Threshold Limit Values, in millions of particles per cubic foot of air for dust, in milligrams of particulate per cubic meter of air for fumes, and in parts per million parts of air by volume for gases and vapors; Odor Threshold, in parts per million parts of air by volume; Toxic characteristics; Signs of poisoning; Short exposure tolerance, in parts per million parts of air by volume; and First aid exposure procedures.

(7) Reactivity data, including Stability; Compatability; Decomposition products; and Polymerization rate.

(8) Spill or leak procedures and precautions.

(9) Special precautions recommended, including respiratory protection; ventilation, such as local exhaust, mechanical, special, or other; personal protective equipment, including protective gloves, eye protection, and protective clothing.

(10) Handling and storage precautions.

The required information shall be entered on U.S. Department of Labor Form LSB 00S–4, "Hazardous Material Data Sheet," or on an essentially similar form accepted by the Bureau of Labor Standards. The completed form shall be kept on file, available for inspection, for a period of at least 3 months from the date of the completion of the job.

* * * * *

Signed at Washington, D.C., this 16th day of August 1968.

WILLARD WIRTZ,
Secretary, Department of Labor.

[F.R. Doc. 68–10156; Filed, Aug. 22, 1968; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 75]

[Airspace Docket No. 68–WE–61]

JET ROUTES

Proposed Alteration and Establishment

The Federal Aviation Administration is considering amendments to Part 75 of the Federal Aviation Regulations that would realign J–94 from Battle Mountain, Nev., via Lucin, Utah, to Rock Springs, Wyo., and to renumber the present alignment of J–94 from Battle Mountain via Salt Lake City, Utah, to Rock Springs, as J–154.

The realignment of J–94 would relieve congestion in the Salt Lake City area by providing a bypass route for en route east/west traffic overflying Salt Lake City. J–154 would retain an east/west transitional route for traffic destined for Salt Lake City.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, 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 amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on August 15, 1968.

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

[F.R. Doc. 68–10160; Filed, Aug. 22, 1968; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18110]

STANDARD, FM, AND TELEVISION BROADCAST STATIONS

Multiple Ownership; Order Extending Time for Filing Reply Comments

In the matter of amendment of §§ 73.35, 73.240 and 73.636 of the Commission rules relating to multiple ownership of standard, FM and television broadcast stations, Docket No. 18110.

1. Comments in this proceeding were due and were filed on or before August 1, 1968.

2. After that date, the National Association of Broadcasters (NAB) filed a petition requesting that the time for filing reply comments be extended from August 15, 1968, to September 16, 1968. NAB stated that comments filed by the Department of Justice were of such unprecedented scope and potential impact that the additional time would be needed to consider what response, if any, should be made to them.

3. Because the petition did not indicate that NAB would necessarily file reply comments, it appeared that an extension of two rather than four weeks would be ample and consistent with the Commission's expressed intent to terminate this proceeding at an early date. Accordingly, the Broadcast Bureau, acting under delegated authority, released an order (No. 20773) on August 9, 1968, which extended the time for filing reply comments to August 31, 1968.

4. On August 12, 1968, the NAB filed a petition for further extension of time in which it asks for reconsideration of that order and once again requests the September 16 date.

5. Several days later, Truth Publishing Co., Inc., and Time-Life Broadcast, Inc., filed a joint motion to extend the time for filing reply comments from August 31, 1968, to September 30, 1968. In support of the request the parties state the following:

1. We intend to file reply comments in this proceeding.

2. We are currently considering, along with other parties, the desirability of undertaking research projects to support our reply comments. A substantial part of the need for such research has been occasioned by comments filed in this proceeding on August 1.

3. It is not possible to determine and develop a program of research within the period of time now remaining, and certainly no extensive research program could be completed within this period of time.

4. We intend to proceeding expeditiously to determine the nature and character of the research that will be undertaken and will inform the Commission as soon as those determinations are made.

6. The joint motion also indicates that the parties do not wish to delay unduly the termination of this proceeding and the interim policy herein, but that they are of the opinion that it would serve the public interest to allow them sufficient time to determine and develop information, data, and counter-proposals for the consideration of the Commission.

7. It appearing that adequate cause has been shown for extending the time as requested in the joint motion: *It is ordered*, That the "Joint Motion To Extend Time for Filing Reply Comments" filed by Truth Publishing Co., Inc., and Time-Life Broadcast, Inc., on August 15, 1968, is granted; that therefore the "Petition for Further Extension of the Time in Which To File Reply Comments" filed on August 12, 1968, by the National Association of Broadcasters is moot; and that the time for filing reply comments in this proceeding is extended from August 31, 1968, to and including September 30, 1968.

8. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: August 19, 1968.

Released: August 19, 1968.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GEORGE S. SMITH,
Chief, Broadcast Bureau.

[F.R. Doc. 68-10181; Filed, Aug. 22, 1968; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1056]

[Ex Parte No. MC-19 (Sub-No. 5)]

PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

Determination of Weights

AUGUST 12, 1968.

Notice is hereby given that the Household Goods Carriers' Bureau, by its attorney, Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006, has filed a petition with the Interstate Commerce Commission praying that the Commission institute a rule making proceeding for the purpose of adding to its rules and regulations in Title 49 of the Code of Federal Regulations a new § 1056.3(d), reading as follows:

§ 1056.3 Determination of weights.

* * * * *

(d) The provisions of paragraphs (a), (b), and (c) of this section shall not apply to shipments consisting solely of machinery (including auxiliary and component parts thereof) which are being transported by household goods carriers pursuant to the definition of household goods in subpart (3) of § 1056.1(a).

Any persons interested in any of the matters in the petition may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file replies to the petition supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of 2 copies upon the petitioner's attorney at the above address.

Notice of the filing of this petition will be given by publication in the FEDERAL REGISTER.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-10174; Filed, Aug. 22, 1968; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COLORADO

Modification of Grazing Districts

Pursuant to the authority vested in the Secretary of the Interior by the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269) as amended.

The district boundary common to Colorado Grazing Districts No. 3 and No. 7 is adjusted to transfer administrative responsibility of all land described below from Colorado Grazing District No. 3 (Montrose), to Colorado Grazing District No. 7 (Grand Junction). All vacant, unappropriated public land lying west of a line following the east rim of Dominguez and Little Dominguez Canyons which traverses:

SIXTH PRINCIPAL MERIDIAN, COLO.

T. 14 S., R. 98 W.,
Sec. 17, SW¼SW¼;
Sec. 20, W½NW¼, E½SW¼;
Sec. 29, NE¼NW¼, W½NE¼, W½SE¼, SE¼SE¼;
Sec. 32, NE¼NE¼;
Sec. 33, NW¼NW¼, S½NW¼, E½SW¼.
T. 15 S., R. 98 W.,
Sec. 4, NW¼NW¼;
Sec. 5, N½NE¼, SW¼NE¼, N½SW¼, SW¼SW¼;
Sec. 7, SE¼SE¼;
Sec. 8, W½NW¼, NW¼SW¼;
Sec. 18, NE¼NE¼, W½NE¼, W½SW¼;
Sec. 19, W½NW¼, NE¼NW¼.
T. 15 S., R. 99 W.,
Sec. 24, E½SE¼, SW¼SE¼;
Sec. 25, NW¼NE¼, SE¼NW¼, NE¼SW¼, SW¼SW¼;
Sec. 32, south boundary line SE¼;
Sec. 33, S½S½;
Sec. 34, S½S½;
Sec. 35, N½SW¼, SW¼NE¼, N½NE¼.

Also in T. 14 S., R. 98 W., Section 17, all land situated in Delta County lying north of the Gunnison River which traverses the SW¼ of the section.

All vacant and unappropriated land lying east of the above described line in T. 14 S., R. 98 W., and T. 15 S., R. 98 and R. 99 W., remains under administrative jurisdiction of Colorado Grazing District No. 3 (Montrose).

Also in T. 14 S., R. 98 W., Section 17, all land situated in Mesa County lying south of the Gunnison River which traverses the NE¼ of that section is transferred from Colorado Grazing District No. 7 (Grand Junction), to Colorado Grazing District No. 3 (Montrose).

The transfer of jurisdiction of these lands will not affect the status or use of public lands in any way and shall be effective with publication of this notice in the FEDERAL REGISTER.

The boundary line described is shown upon Bureau of Land Management map entitled Little Dominguez, dated August 1, 1968, filed in the Colorado Land Office, Denver, Colo., as a supplement to this order.

JOHN O. CROW,
Associate Director.

AUGUST 16, 1968.

[F.R. Doc. 68-10155; Filed, Aug. 22, 1968; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[Countervailing Duties—ATS 644]

SKI LIFTS AND PARTS FROM ITALY

Notice of Countervailing Duty Proceedings

Information has been received pursuant to the provisions of § 16.24(b) of the Customs Regulations (19 CFR 16.24(b)) which appears to indicate that certain rebates or refunds granted by Italy on the exportation of ski lifts and parts thereof constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), upon the manufacture, production, or exportation of the merchandise to which the payments apply. The available information indicates that the amount of the rebate or refund is 18 lire per kilo.

After the expiration of the time limits set forth in this notice, a determination will be made whether a bounty or grant is being paid or bestowed in connection with any such manufacture, production, or export. If it is determined that a bounty or grant is being paid or bestowed, an appropriate countervailing duty order will be issued and published in accordance with § 16.24 of the Customs Regulations (19 CFR 16.24).

Before a determination is made consideration will be given to any relevant data, views, or arguments submitted in writing with respect to the existence or nonexistence, and the net amount of a bounty or grant. Such submissions should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20226, in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

This notice is published pursuant to § 16.24(d) of the Customs Regulations (19 CFR 16.24(d)).

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: August 16, 1968.

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

[F.R. Doc. 68-10179; Filed, Aug. 22, 1968; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20119; Order 68-8-77]

AMERICAN AIRLINES, INC. ET AL.

Order of Investigation and Suspension Regarding Charges for Air Freight

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of August 1968.

By tariff revisions[1] bearing various filing or posting dates, and marked to become effective September 1, 1968, American Airlines, Inc. (American), Trans World Airlines, Inc. (TWA), and United Air Lines, Inc. (United), propose to establish minimum charges per shipment moving at their general commodity rates equal to the charges for 100 pounds, but not less than $9. With respect to specific commodity rates, the carriers propose a minimum charge of $9 per shipment or the charge for the applicable minimum weight, whichever is higher; this minimum weight is typically 100 pounds, but in some cases it is different, generally higher. By tariff revision effective on the same date, bearing a posting date of July 18, 1968, Eastern Air Lines, Inc. (Eastern), proposes to establish minimum charges per shipment moving at its general commodity rates equal to the charges for 50 pounds but not less than $10. For specific commodity rates, Eastern proposes a minimum charge of $10 per shipment or the charge for the applicable minimum weight, whichever is higher.

These proposals involve some increases over the current minimum charges published by these carriers. For shipments at general commodity rates, the current minimum charge is $6 or the charge for 50 pounds, whichever is higher; for shipments at specific commodity rates, $6 or the charge for the applicable minimum weight, whichever is higher, is the present minimum.

In support of their proposals, the carriers assert, inter alia, that they and other airlines are not earning adequate profits on their all-cargo services; that one reason for this unsatisfactory return is that present minimum charges are not compensatory; that the proposed charges will not cover the full cost of handling small shipments, but will reduce the losses; and that shippers will not necessarily have to pay higher charges for the air transportation of small shipments because they can use air freight forwarders, air express or air parcel post, whose charges for small shipments are generally lower.

A complaint against American's proposal was filed by Saltwater Farm, Inc.,

[1] Revisions to Airline Tariff Publishers, Inc., agent, Tariffs C.A.B. No. 8 and No. 12 (agent J. Aniello series).

Damariscotta, Maine, a shipper of seafoods.[2] This complaint asserts that the proposed increases would be severely damaging to shippers of small packages, that the cost analyses presented by American are subject to serious question to the extent that they purport to apply to the shipments of complainant, that the complainant's prices for the remainder of the calendar year have already been distributed in advertising and catalogues, and that absorption of the proposed increases is not feasible.

Trans World Airlines, Inc. (TWA), submitted an answer asserting that there is considerable merit in American's proposal. TWA states that the proposal strengthens the role of air freight forwarders with respect to their handling of small shipments, which TWA strongly supports.

Upon consideration of the complaint and all other relevant matters, the Board finds that the minimum charges proposed by American, TWA, and United for shipments at their general commodity rates, insofar as the minimum charge would be based on the charge for 100 pounds, may be unjust, unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be investigated and suspended.

The increases proposed by those carriers are significant and may well have a considerable impact upon shippers. The minimum charges for longer hauls moving at general commodity rates, currently equal to the charge for 50 pounds, would be increased by as much as 55 percent and would appear to significantly exceed costs of service including a fair return.

American asserts that its proposed minimum charge (for traffic moving at its general commodity rates), is approximately equal to the cost of carrying the average small shipment. The carrier's average shipment of less than 100 pounds is said to consist of two pieces weighing a total of 40 pounds and having a haul of 1,100 miles. The cost of transporting this shipment is indicated as $12.88, of which $10.70 is ground and indirect expense, $1.28 line-haul expense and $0.90 return element at 10.25 percent of investment plus an allowance for taxes. The carrier compares these costs with the present minimum charge for this shipment, $9.50, and with the proposed minimum charges, $13.55 for westbound movements, and $10.50 for eastbound movements, averaging $12.03. American emphasizes the high fixed costs of ground handling, presenting data purporting to indicate that the ground and indirect costs are $9.19 for a one-pound shipment.

United asserts that its fixed ground handling expenses are very high, resulting in substantial losses for small shipments. The carrier claims that its ground costs of handling a one-pound shipment are $8.70, which is below the current charges for shipments of less than 50 pounds and transported less than 651 miles.

For shipments to which the proposed minimum charge of $9 would apply (all sizes up to and including 100 pounds for hauls up to 700 miles), the costs of service, according to American's formula, would exceed the proposed charges.[3] For example, a 10-pound shipment for a 200-mile haul involves a fully allocated cost including return element and tax allowance of $9.44 and a proposed charge of $9 both westbound and eastbound. The cost for a 100-pound shipment for a haul of 200 miles would be $14.04, but the charge proposed would still be $9.

The costs of transportation for longer distances are, of course, higher than for shorter distances, but the proposed charges rise much faster than costs. For a 10-pound shipment, the fully allocated cost increases from $9.44 at 200 miles to $10.53 at 2,700 miles. But the charge proposed by the carrier for shipments under general commodity rates, i.e., the charge for 100 pounds when it exceeds $9, increases from $9 at 200 miles to $27.45 for westbound movements and $21.30 eastbound at 2,700 miles.

As a result, the spread between the proposed charges and costs widens significantly at longer distances. For a 2,700-mile haul, the westbound charge for a 10-pound shipment of $27.45 is 160 percent above the fully allocated cost of $10.53, while the eastbound charge of $21.30 is 102 percent above the cost.

The foregoing indicates that, based upon American's cost formula, the proposed charges would significantly exceed costs plus return and tax allowance for the longer hauls, especially for shipments of 70 pounds and less westbound. However, for all shipment sizes in shorter hauls, the minimums proposed would be less than the applicable costs.

American contends that its proposal will not necessarily force shippers to pay higher air transport charges because they have the alternative of using air freight forwarders, air express, and air parcel post, whose charges for small shipments are generally lower than the proposed charges. The existence of these other services, however, does not affect an air carrier's duty to charge reasonable rates.

Accordingly, the Board concludes that while the $9 minimum charge does not appear unreasonable and should be permitted to become effective, the element of the minimum charge formula when based on the charge for 100 pounds may be excessive and unreasonable and should not become effective without prior investigation. Similarly the Board will permit Eastern's proposed minimum charges to become effective without investigation. Eastern asserts that its average minimum shipment (29 pounds transported 785 miles), involves an operating cost of $13.35, of which ground costs amount to $10.30. Based upon these data and other information available to us, the proposed minimum charge of $10 in lieu of the current $6 charge does not appear excessive. The proposed alternative of 50 pounds is identical to the current minimum charge.

For technical reasons, it is necessary to suspend the entire proposals of American, TWA, and United, although the minimum dollar charge proposed of $9 does not appear unreasonably high. The Board would permit, however, these carriers to refile either the $9 or $10 minimum in conjunction with the present charge for 50 pounds.

The foregoing refers to minimum charges for shipments at general commodity rates. The carriers' proposals for shipments at specific commodity rates are identical to the current provision (the charge for the lowest minimum weight published) except that the minimum dollar charge would be $9 for American, TWA, and United and $10 for Eastern. The current charge is $6. Consistent with the conclusion with respect to shipments at general commodity rates, the Board has decided to permit these proposals to become effective without investigation.

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

It is ordered, That:

1. An investigation be instituted to determine whether the minimum charges described in Appendix A attached hereto,[4] and rules, regulations, and practices affecting such minimum charges, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful minimum charges, and rules, regulations, or practices affecting such minimum charges;

2. Pending hearing and decision by the Board, the minimum charges described in Appendix A hereto are suspended and their use deferred to and including November 29, 1968, 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;

3. The complaint by Saltwater Farm, Inc., in Docket No. 19931, is dismissed, except to the extent granted herein;

4. The proceeding herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order shall be filed with the tariffs and served upon American Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Saltwater Farm, Inc., which are hereby made parties to this proceeding.

[2] Letters of protest were received from Aerospace Airfreight Association, Inc., and the Crawford Lobster Co., Kittery, Maine.

[3] All of the following cost calculations are based on American's cost formula which appears to provide the best testing basis available at this time.

[4] Filed as part of the original document.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 68-10183, Filed, Aug. 22, 1968; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 18288, 18290; FCC 68-833]

FLORA BROADCASTING CORP. ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Flora Broadcasting Corp., Flora, Ill., requests: 97.7 mc, No. 249; 3 kw; 300 feet, Docket No. 18288, File No. BPH-6200; Doyle Ray Flurry, Flora, Ill., requests: 97.7 mc, No. 249; 3 kw; 159 feet, Docket No. 18289, File No. BPH-6278; Thomas S. Land and Bryan Davidson, doing business as Salem Broadcasting Co., Salem, Ill., requests: 97.7 mc, No. 249; 3 kw; 160 feet, Docket No. 18290, File No. BPH-6321; for construction permits.

1. The Commission has before it for consideration (a) the above captioned and described applications, (b) "Petition to Deny" the application of Flora Broadcasting Corp. filed by Doyle Ray Flurry, (c) "Petition To Dismiss or Deny" the Flora Broadcasting Corp. application filed by Salem Broadcasting Co., (d) "Petition To Dismiss or Deny" the Doyle Ray Flurry application filed by Salem Broadcasting Co., and (e) Doyle Ray Flurry's "Opposition To Petition To Dismiss or Deny."

2. Doyle Ray Flurry's petition was filed for the sole purpose of preserving his position to obtain a comparative hearing on his simultaneously-filed application. Flurry has been concerned that the Commission's amendment of the "25-mile" rule to substitute a "10/15-mile" rule might be considered as precluding acceptance of its application for filing. However, as the subsequently-released report and order indicated, the change was not to be effective until June 4, 1968. Since Flurry's application was filed before then, his arguments in favor of its acceptance need not be considered, and his petition will be dismissed as moot.

3. Salem Broadcasting Co.'s separate petitions against the two Flora, Ill., applications will be considered together because they involve the same questions. It is Salem Broadcasting Co.'s position that both applications should be dismissed as violative of the then "25-mile" rule (§ 73.203(b)) because Flora, Ill., is more than 25 miles from Salem, Ill., the community listed in the FM Table. Using the main post office locations of the communities, Salem Broadcasting Co. determined the distance between the communities to be 25.335 miles. Thus, it argues that even under the old rule, Flora cannot be considered as being within 25 miles of Salem. While recognizing that the Flora applications were filed under the old rule, it contends that the reasoning which led to the adoption of new rules containing a more stringent standard calls for a literal interpretation of the rule here. Doyle Ray Flurry opposed the petition, arguing that the use of technicalities should not obscure the purposes of the rule, namely to provide the flexibility to permit a choice between the communities based on their need for the proposed service.

4. Section 73.203(b) specified that an application could propose use of an FM channel elsewhere than the listed community, provided the proposed community was unlisted and was within 25 miles of the listed community. While under ordinary usage it might appear that this language would bar acceptance of an application for a community even 25.001 miles distant, such an interpretation is specifically rebutted by provisions of the Commission's rules. Thus, § 73.203(b), after mentioning the 25-mile distance limitation went on to specify that the distances were to be measured in accordance with § 73.208(c). Section 73.208(c)(5) indicates that such computations are based on rounding-off to the nearest mile. Invariably, the provisions of § 73.208 which apply to minimum separation requirements as well, have been employed on the basis of rounding-off to the nearest mile. Using this method even Salem Broadcasting Co.'s figures show that the Flora applications do not exceed the 25-mile standard. While we amended our rules because of our concern about situations encountered under administration of the old rule, this fact provides no basis for rejecting these applications which were filed well before the new rule went into effect. Accordingly, the petitions will be denied.

5. The respective proposals, which are mutually exclusive in that operation by the applicants as proposed would result in mutual destructive interference, are for different communities and would serve substantially different areas and populations. Consequently, it will be necessary to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

6. In Minshall Broadcasting Co., Inc., 11 FCC 2d 796, 12 R.R. 2d 502 (1968), we indicated that applicants were expected to provide full information on (i) the steps that they have taken to inform themselves of the real needs and interests of the area; (ii) the suggestions they have received; (iii) their evaluation of those suggestions; and (iv) the programing proposed to meet the community needs as they have been evaluated. Although Flora Broadcasting Corp. failed to show the making of an adequate survey, the other applicants appear to have made adequate surveys. None of the applicants, however, have listed the suggestions received, their evaluation of those suggestions or the programing proposed to meet those needs as evaluated. Thus, we are unable at this time to determine whether the applicants are aware of and responsive to the needs of their areas. Accordingly, Suburban issues are required.

7. According to his application, Doyle Ray Flurry would require a total of $13,048 for construction and first-year operation. To meet this requirement he shows $2,400 in cash. Reliance on proceeds from the anticipated sale of real property is not possible since their liquidity has not been demonstrated. Moreover, Flurry's low cost figures are predicated on the FM station's being an adjunct to his proposed AM station in Flora. Since this station has not yet been authorized, such reliance is misplaced. Accordingly, an issue will be specified to determine the anticipated costs for this FM proposal and his ability to meet these costs.

8. Since no determination has yet been reached on whether the antenna proposed by Salem Broadcasting Co. would constitute a menace to air navigation, an issue regarding this matter is required.

9. Flora Broadcasting Corp. is organized in the State of Tennessee and has not provided any indication that it is or can be qualified to do business in the State of Illinois. Although the corporate articles specify the position of Secretary, the application does not show that this post has been filled, and as a result the corporate bylaws lack his certification. An appropriate issue on this matter will be specified, pursuant to which certification of the bylaws will be required.

10. There is a significant difference between the Flora applicants in the amount of AM duplication proposed. Doyle Ray Flurry proposes duplication of his proposed AM station during daytime hours while Flora Broadcasting Corp. proposes independent operation. Therefore, evidence regarding program duplication will be admissible under the contingent comparative issue applicable if Flora is the preferred community under the 307(b) issue. When duplicated programing is proposed, the showing permitted under the comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specific programing inquiry—Jones T. Sudbury 8 FCC 2d 360, FCC 67-614 (1967).

11. Except as indicated below, the applicants are qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity, and is of the opinion that the applications must be designated for hearing on the issues set forth below.

12. *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place

[1] Dissenting statement of Member Adams filed as part of original document.

to be specified in a subsequent order, upon the following issues:

1. To determine the amount reasonably required by Doyle Ray Flurry to construct and operate his proposed station for 1 year without revenue and the availability of such funds beyond the $2,400 shown to be available and thus demonstrate his financial qualifications.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Salem Broadcasting Co. would constitute a menace to air navigation.

3. To determine whether Flora Broadcasting Corp. is or can be qualified to do business in the state of Illinois.

4. To determine the efforts made by Flora Broadcasting Co. to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

5. To determine the efforts made by Doyle Ray Flurry to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

6. To determine the efforts made by Salem Broadcasting Corp. to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

7. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

8. To determine, in the event it is concluded that the Flora applicants are to be preferred under the preceding issue but a choice between these applications should not be based solely on considerations relating to section 307(b), which of these proposals would better serve the public interest.

9. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if any, of the applications should be granted.

13. *It is further ordered,* That the Federal Aviation Administration is made a party to the proceeding.

14. *It is further ordered,* That the "Petition To Deny" filed by Doyle Ray Flurry is dismissed as moot.

15. *It is further ordered,* That the "Petitions To Dismiss or Deny" filed by Salem Broadcasting Co. are denied.

16. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants and party 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.

17. *It is further ordered,* That the applicants 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, either individually or, if feasible and consistent with the rules, jointly, 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: August 14, 1968.

Released: August 20, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-10182; Filed, Aug. 22, 1968; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

MEDCHI FREIGHT POOL

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Eric G. Brown, Secretary, MedChi Freight Pool, 10, Place de la Joliette (2me), Marseilles, France.

Agreement No. 9020-5, modifies the basic pooling agreement by (1) substituting Cadiz for Seville as a loading port from September 15, 1968, to the end of the open water season and provides for the pooling of earnings, the computation of carrying money and pre-carriage expenses from this port as set forth in Article 3; (2) amends Article 9 to provide that a call at Cadiz will count as a call at Seville in fulfilling service obligations; and (3) excepts automobiles new, unlicensed, unboxed, not privately owned, ex factory for the pool period 1968 from cargo carried pursuant to Article 4.

Dated: August 20, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10192; Filed, Aug. 22, 1968; 8:48 a.m.]

[1] Commissioner Cox absent.

A. P. MOLLER-MAERSK LINE AND KAWASAKI KISEN KAISHA, LTD.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. A. A. de Giglio, "K" Line New York, Inc., 29 Broadway, New York, N.Y. 10006.

Agreement No. 9477-1 between A. P. Moller-Maersk Line and Kawasaki Kisen Kaisha, Ltd., modifies the basic transshipment agreement by (1) adding Hong Kong as a transshipment point, (2) placing a minimum of $30 per revenue ton of the through freight revenue to accrue to Kawasaki Kisen Kaisha, Ltd., and (3) placing a maximum transshipment expense of $2 per revenue ton to be absorbed by Kawasaki Kisen Kaisha, Ltd.

Dated: August 20, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10193; Filed, Aug. 22, 1968; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP69-23]

EL PASO NATURAL GAS CO.

Notice of Application

AUGUST 16, 1968.

Take notice that on August 6, 1968, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP69-23 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing continuance of the following activities conducted on the date of filing hereof: (1) The continued operation of all natural gas sales, and appurtenant facilities, utilized for the sale, on either a direct or resale basis, of natural gas under contracts with 13 direct sales customers and 27 resale customers and (2) the continued sale of natural gas in interstate

commerce for resale made under contracts with the said 27 resale purchasers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application requests the above authorizations respecting sales heretofore initiated by means of some 134 measuring and regulating stations and some 658 mainline taps located in production areas of the States of Texas, New Mexico, Oklahoma, and Colorado and by means of one measuring and regulating station located in Pinal County, Ariz. The application states that such sales made in production areas were initiated without certificate authority under circumstances where, prior to delivery, the gas has not been commingled with gas which has first crossed a State boundary and, following delivery, the gas is consumed in the State of production. Applicant states that it seeks the authorization requested herein, in consideration of judicial determination made in the Florida Parishes case. Louisiana Public Service Commission, et al., v. Federal Power Commission, et al., 359 F. 2d 525 (5th Circuit 1966); cert. den. 385 U.S. 883 (1966).

Protests 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 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before September 13, 1968.

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 protest or 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 protest or 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. 68-10150; Filed, Aug. 22, 1968; 8:45 a.m.]

[Docket No. CP69-27]

CITY OF SHELLMAN, GA. AND SOUTH GEORGIA NATURAL GAS CO.

Notice of Application

AUGUST 16, 1968.

Take notice that on August 12, 1968, the city of Shellman, Ga. (Applicant), filed in Docket No. CP69-27 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing South Georgia Natural Gas Co. (Respondent), to establish physical connection of its transportation facilities with the facilities of Applicant's proposed natural gas distribution system through which local distribution of natural gas will be made to the public in the city of Shellman, Ga., and the area adjacent thereto and to sell natural gas to Applicant for such purpose, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the city of Shellman is not now rendering gas service of any kind.

The estimated third year peak day and annual requirements of Applicant are 334.8 Mcf and 36,165 Mcf, respectively.

The total estimated project cost is $120,000, which cost will be financed by the issuance of Natural Gas Revenue Bonds.

Protests 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 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before September 13, 1968.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-10151; Filed, Aug. 22, 1968; 8:45 a.m.]

[Docket No. CP68-196, CP68-223]

SHENANDOAH GAS CO. AND ATLANTIC SEABOARD CORP.

Order Granting Petition To Intervene and Fixing Date of Hearing

AUGUST 12, 1968.

Atlantic Seaboard Corp. (Atlantic Seaboard) on February 8, 1968, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act to authorize it to construct and operate measuring and regulating facilities near Cedarville in Warren County, Va., incident to the establishment of a new delivery point to Shenandoah Gas Co. (Shenandoah). Notice of this application was issued by the Commission on February 16, 1968, and was published in the FEDERAL REGISTER on February 24, 1968 (33 F.R. 3357). The notice fixed March 15, 1968, as the final date for filing protests or petitions to intervene.

Shenandoah, on January 11, 1968, filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity to authorize it to construct and operate approximately 16 miles of 12.125 inch transportation line to connect with the new delivery point sought to be established by Atlantic Seaboard and to extend through portions of Warren, Clark, and Frederick Counties, Va., to a junction point with the mainline facilities of Shenandoah near Clearbrook, Va. Notice of this application was issued by the Commission on January 22, 1968, and was published in the FEDERAL REGISTER on January 27, 1968 (33 F.R. 1088). The notice fixed March 15, 1968, as the final date for filing protests or petitions to intervene.

Subsequent to the final date fixed for filing petitions to intervene with respect to Shenandoah's application, Floyd S. Dominy (Petitioner), filed a motion for permission to file a petition to intervene out of time accompanied by his petition to intervene. In the petition, Petitioner alleges that he is a landowner in Clark County, Va., of property which would be crossed by the pipeline for which Shenandoah seeks authorization. The petitioner further alleges that the construction of the pipeline, due to the safety aspects thereof, would interfere with the future development of his property. Petitioner requests that the application be set for formal hearing, and that no certificate be issued pending investigation and completion of the hearing.

Shenandoah, on July 12, 1968, filed an answer to the motion for petition for leave to intervene. Shenandoah, in the answer, requests the Commission to deny intervention to the Petitioner because:

(a) Of the late filing of the motion and petition to intervene;

(b) In view of the formal notice given by the Commission in accordance with its established procedures, Petitioner had failed to explain the reason for the lateness of his filing despite the statement in Petitioner's motion that "The first [actual] notice Petitioner had as to the Company's proposal was an oral offer and presentation by a right-of-way negotiator employed by the Company in an effort to secure Petitioner's signature to an easement construction."

(c) Petitioner allegedly had interposed no objection in his contacts with Shenandoah to the laying of the pipeline through his property but was interested only in the amount of money which he would receive for the grant of a right-of-way. An affidavit attached to Shenandoah's answer purports to show the course of the abortive negotiations between Shenandoah and Petitioner as to an appropriate price.

On July 22, 1968, the Petitioner filed what is in effect a motion for leave to file a response to the answer earlier filed by Shenandoah and incorporates therein the response to the answer. In the response, Petitioner alleges that the institution of eminent domain proceedings by Shenandoah prior to obtaining a certificate of public convenience and necessity is in violation of the Natural Gas Act. Petitioner also contends that compensation is not the sole basis for his opposition to the pipeline, but he is primarily concerned because its proposed construction in proximity to an electric transmission line may create a safety problem.

We are of the opinion that issues warranting hearing have been raised by the motion and petition for leave to intervene and answer filed thereto together with Petitioner's motion and response to the answer to accept the late filing for intervention and to permit Floyd S. Dominy to become an intervenor in the

proceeding upon Shenandoah's application.

Inasmuch as the applications of Atlantic Seaboard and Shenandoah Gas Co. are interdependent, we will consolidate such applications for hearing and provide that a hearing be held on such applications.

The Commission finds:

(1) Good cause exists to allow the Petitioner, Floyd S. Dominy, to intervene in these proceedings in order that he may establish that facts and law from which the nature and validity of his alleged rights may be determined and show what further action may be appropriate in the circumstances in the administration of the Natural Gas Act.

(2) The question of compensation to be paid for the right-of-way in the event a certificate of public convenience and necessity ultimately issues is not an appropriate subject for consideration by the Commission in determining whether or not a certificate of public convenience and necessity should issue. That question is a matter to be determined by an appropriate court subsequent to the issuance of a certificate of public convenience and necessity and the failure of the parties to reach an agreement with respect to the compensation to be paid in connection with acquisition of an easement.

The Commission orders:

(A) The proceedings upon the applications of Atlantic Seaboard, Docket No. CP68-223, and Shenandoah Gas Co., Docket No. CP68-196, are consolidated for purpose of hearing. A hearing in the consolidated proceedings shall be held before a hearing examiner of the Commission in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426 on September 3, 1968, beginning at 10 a.m. e.d.s.t.

(B) At the hearing held pursuant to Paragraph (A) of this order Atlantic Seaboard and Shenandoah shall present their direct testimony with respect to their applications.

(C) The presiding examiner shall then fix the time for presentation of testimony by other parties.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-10173; Filed, Aug. 22, 1968; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SA-404]

ACCIDENT AT PARAMOUNT, CALIF.

Notice of Cancellation

In the matter of investigation of accident involving aircraft of U.S. registry N303Y, Paramount, Calif., May 22, 1968.

Notice of cancellation is hereby given concerning Accident Investigation Hearing on the above matter which was scheduled to convene at 9 a.m. (local time), on August 21, 1968, in the Blossom Room, Hollywood Roosevelt Hotel, Hollywood, Calif.

Dated this 15th day of August 1968.

For the Board.

JOSEPH J. O'CONNELL, JR.,
Chairman.

[F.R. Doc. 68-10185; Filed, Aug. 22, 1968; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 20, 1968.

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. 41420—*Ammonium nitrate limestone (Calnitro) from Hopewell, Va.* Filed by O. W. South, Jr., agent (No. A6043), for and on behalf of Seaboard Coast Line Railroad Co. Rates on ammonium nitrate limestone (calnitro), in bags or in bulk in box cars, in carloads, from Hopewell, Va., to Charleston, S.C., and Wilmington, N.C.

Grounds for relief—Barge competition.

Tariff—Supplement 21 to Southern Freight Association, agent, tariff ICC S-762.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-10175; Filed, Aug. 22, 1968; 8:47 a.m.]

[Notice 674]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 20, 1968.

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 340) 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 protest 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 the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 4575 (Sub-No. 1 TA), filed August 14, 1968. Applicant: JOHN E. BRUNER AND JOHN P. BRUNER, doing business as BRUNER TRANSFER, 1545 Henry Avenue, Box 907, Beloit, Wis. 53511. Applicant's representative: John L. Bruemmer, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Engine parts and accessories, including motors and compressors*, from Beloit, Wis., to points in Arizona, Illinois, Indiana, Kansas, Louisiana, Massachusetts, South Dakota, and Texas, and *rejected or returned shipments* of the above commodities on return. The above is restricted to shipments originating at the plantsite of Fairbanks Morse, Inc., at Beloit, Wis., for 180 days. NOTE: Applicant does not intend to tack with its existing authority. Supporting shipper: Fairbanks Morse, Inc., Power Systems Division, 2821 West Grant Avenue, Bellwood, Ill. 60104. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 11, 444 West Main Street, Madison, Wis. 53703.

No. MC 20802 (Sub-No. 4 TA) (Correction), filed July 29, 1968, published FEDERAL REGISTER issues of August 3 and August 15, 1968, and republished as corrected this issue. Applicant: WHEELER MOTOR EXPRESS, INCORPORATED, 279 Lake Shore Drive West, Dunkirk, N.Y. 14048. Applicant's representative: William J. Hirsch, 43 Niagara Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities limited to shipments weighing no more than 5,000 pounds each*, between Barcelona, N.Y., and Jamestown, N.Y.: (a) From Barcelona over N.Y. Highway 17 to Jamestown and (b) from Barcelona over New York Highway 17 to Mayville, N.Y., thence over New York Highway *17J* to Jamestown, and return over the same route, serving all intermediate points and the off-route points in New York of: Ashville, Blockville Clymer Findley Lake, North Clymer, Panama, Sherman and Stedman, for 150 days. NOTE: Applicant would continue its interline arrangements with approximately 50 carriers including motor carriers, airlines, and freight forwarders. Applicant failed to indicate it proposes to tack at Barcelona, N.Y. with existing authority held by it. Applicant proposes to interline at Buffalo and Jamestown, N.Y. Supporting shippers: There are approximately (16) statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies

[1] Concurring statement of Commissioner Bagge filed as part of the original document.

thereof which may be examined at the field office named below. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 27063 (Sub-No. 16 TA), filed August 14, 1968. Applicant: LIBERTY TRANSFER COMPANY, INC., 1601 Cuba Street, Baltimore, Md. 21230. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paperboard*, from the plantsite of Simkins Industries, Severn, Md., to Wilmington, Del.; District of Columbia; Bloomfield, Clifton, Clinton, Elizabeth, Flemington, Hackensack, Hoboken, Irvington, Jersey City, Paterson, Perth Amboy, Rahway, Ridgefield, Lodi, Milltown, Newark, and Woodbridge, N.J.; Bronx, Brooklyn, Emhurst, L.I., Flushing, Mount Vernon, New York, and Yonkers, N.Y.; Allentown, Chester, Dowington, Easton, Harrisburg, Levittown, Manyunk, Philadelphia, and Ringtown, Pa., for 120 days. Supporting shipper: Vernon Russell, Traffic Director, Simkins Industries, Inc., Post Office Box 3249, Catonsville, Md. 21228. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1125 Federal Building, Baltimore, Md. 21201.

No. MC 35320 (Sub-No. 102 TA), filed August 14, 1968. Applicant: T.I.M.E. FREIGHT, INC., 2598 74th Street, Post Office Box 2550, Lubbock, Tex. 79408. Applicant's representative: Frank M. Garrison (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, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Grinnell Corp. located near Henderson, Tenn., as an off-route point in connection with its authority to serve Jackson, Tenn., for 150 days. Supporting shipper: Grinnell Corp., G. L. Hoch, general traffic manager, Providence, R.I. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 61403 (Sub-No. 181 TA), filed August 14, 1968. Applicant: THE MASON AND DIXON TANK LINES, INC., Eastman Road, Post Office Box 47 (37644), Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid and phosphatic fertilizer solution*, in bulk, from Uncle Sam, St. James Parish, La., to points in Alabama, Arkansas, Florida, Georgia, Illinois on and south of U.S. Highway 50 including East St. Louis, Kentucky, Louisiana, Mississippi, Missouri on and south of Missouri River, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Freeport Sulphur Co., 161 East 42d Street, New York, N.Y. 10017. Send protests to: J. E. Gamble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 803, 1808 West End Building, Nashville, Tenn. 37203.

No. MC 71516 (Sub-No. 89 TA), filed August 15, 1968. Applicant: ALABAMA HIGHWAY EXPRESS, INC., 3300 Fifth Avenue South, Post Office Box 316 (35202), Birmingham, Ala. 35222. Applicant's representative: Robert E. Tate, Suite 2023, City Federal Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission and liquid commodities in bulk), between the plantsite of the Ford Motor Co. located at the intersection of Westport Road and Murphy Lane, Jefferson County, Louisville, Ky., on the one hand, and, on the other, points in Alabama, for 180 days. NOTE: Applicant intends to tack MC-71516 at Birmingham, Ala. Supporting shipper: Ford Motor Co., the American Road, Dearborn, Mich. 48121. Send protests to: B. R. McKenzie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 823, 2121 Building, Birmingham, Ala. 35203.

No. MC 95540 (Sub-No. 734 TA), filed August 15, 1968. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33801. Applicant's representative: Paul E. Weaver (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, not frozen, from Waterloo, Red Creek, Rush Creek, Egypt, Penn-Yan, Lyons, Newark, and Fairport, N.Y., to points in Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Iowa, Missouri, and Illinois, for 180 days. Supporting shipper: Comstock-Greenwood Foods, division of the Borden Co., Newark, N.Y. 14513. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 102567 (Sub-No. 126 TA), filed August 14, 1968. Applicant: EARL GIBBON TRANSPORT, INC., 235 Benton Road, Post Office Drawer 5357, Bossier City, La. 71010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid and phosphatic fertilizer solution*, in bulk, from the plantsite of Freeport Chemical Co., Division of Freeport Sulphur Co., at or near Uncle Sam, St. James Parish, La., to points in Alabama, Arkansas, Florida, Georgia, Illinois, on and south of U.S. Highway 50, including East St. Louis, Kentucky, Louisiana, Mississippi, Missouri, on and south of the Missouri River, Oklahoma, Tennessee and Texas, for 180 days. Supporting shipper: Freeport Sulphur Co., 161 East 42d Street, New York, N.Y. 10017. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 104589 (Sub-No. 24 TA), filed August 15, 1968. Applicant: J. L. LAWHON, 2941 Main Street, East Point, Ga. 30044. Applicant's representative: Robert E. Tate, Suite 2023-2027, City Federal Building, Birmingham, Ala. 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *physical fitness, gymnastic, athletic and sporting goods equipment*, from the plantsite of Diversified Products Corp., at or near Opelika, Ala. to points in Florida; (2) *equipment, materials, and supplies*, used in the manufacture and distribution of the commodities described in (1) above from all points in Florida to the plantsite of Diversified Products Corp., at or near Opelika, Ala., for 180 days. Supporting shipper: Diversified Products Corp., Opelika, Ala. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 111045 (Sub-No. 63 TA), filed August 15, 1968. Applicant: REDWING CARRIERS, INC., Post Office Box 426, 7809 Palm River Road, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Creosote, creosote oil, coal tar and blends thereof*, in tank vehicles, from Jacksonville, Fla., to points in Georgia, for 180 days. Supporting shipper: Bernuth, Lembcke Co., Inc., Graybar Building, 420 Lexington Avenue, New York, N.Y. 10017. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 111201 (Sub-No. 14 TA), filed August 15, 1968. Applicant: J. N. ZELLNER & SON TRANSFER COMPANY, Post Office Box 818, East Point, Ga. 30044. Applicant's representative: Archie B. Culbreth, 1273 West Peachtree Street NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, 1 gallon or less in capacity; *caps, covers, and discs for bottles and jars*, from Skyland, N.C., to points in Georgia, for 180 days. Supporting shipper: Ball Brothers Co., Inc., Muncie, Ind. 47302. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 113784 (Sub-No. 30 TA), filed August 15, 1968. Applicant: CANAL CARTAGE (1968) LIMITED, 36 James Street South, Hamilton, Ontario, Canada. Applicant's representative: William J. Hirsch, 43 Niagara Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry urea*, in bulk, in tank vehicles, from ports of entry on the international boundary

line between the United States and Canada at or near the St. Lawrence River to points in Delaware and New York, for 150 days. Supporting shipper: H. J. Baker & Bro., Inc., 733 Third Avenue, New York, N.Y. 10017. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 121 Ellicott Street (Room 518), Buffalo, N.Y. 14203.

No. MC 114408 (Sub-No. 6 TA), filed August 14, 1968. Applicant: W. E. BEST, INC., State Route 20, Box 445, Pioneer, Ohio 43554. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand, stone, gravel, dirt, and bituminous concrete*, in bulk, in dump vehicles, (1) from points in Paulding County, Ohio, to points in Hillsdale County, Mich.; (2) from points in Steuben County, Ind., to points in Williams County, Ohio; and (3) from points in Hillsdale County, Mich., to points in Williams County, Ohio, for 180 days. Supporting shipper: Northwest Materials, Inc., Bryan, Ohio 43506. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5234 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 116077 (Sub-No. 245 TA), filed August 14, 1968. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 9527 (77011), Houston, Tex. 77023. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid and phosphoric fertilizer solution*, in bulk, from the plantsite of Freeport Chemical Co., division of Freeport Sulphur Co. at or near Uncle Sam, St. James Parish, La., to points in Alabama, Arkansas, Florida, Georgia, Illinois, on and south of U.S. Highway 50 including East St. Louis, Kentucky, Louisiana, Mississippi, Missouri, on and south of the Missouri River, Oklahoma, Tennessee, and Texas, for 180 days. NOTE: Applicant does not intend to tack with presently authorized routes. Supporting shipper: Freeport Sulphur Co., E. H. Ferree, A.S.T.M., 161 East 42d Street, New York, N.Y. 10017. Send protests to: District Supervisor John C. Redus, Interstate Commerce Commission, Bureau of Operations, 8610 Federal Building, 515 Rusk, Houston, Tex. 77002.

No. MC 116544 (Sub-No. 97 TA), filed August 15, 1968. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, Mo. 64836. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I as defined by the Commission (except commodities in bulk, in tank vehicles, and hides), from Dodge City, Kans., to points in Alabama, North Carolina, South Carolina, and Tennessee (except Memphis), for 150 days. Supporting shipper: Hyplains Dressed Beef, Inc., Box 539, Dodge City, Kans. 67801. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 127605 (Sub-No. 4 TA), filed August 14, 1968. Applicant: ELMER E. LAIRD, doing business as ELMER E. LAIRD & SON, 3135 West North Temple Street, Post Office Box 1343, Salt Lake City, Utah 84116. Applicant's representative: William S. Richards, Walker Bank Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sporting goods, fire alarms, vacuum cleaners, sewing machines, sewing machine cases, electric blenders, photo albums, floor sanding, waxing and cleaning machines, cameras, projectors, lawnmowers, encyclopedias, cookware, dishware, melmac products, can openers, coffeemakers, luggage, watches, power tools, radios, toothbrushes, grass catchers, picnic jugs, cutlery and advertising materials*, for the account of National Housewares, Inc., (a) from Los Angeles, Calif., and points in the Los Angeles Harbor commercial zone and from Salt Lake City, Utah, to Cincinnati, Ohio; (b) *cookware*, from Jackson, Miss., *luggage*, from Memphis, Tenn., *books and power tools*, from Chicago, Ill., and *lawnmowers* from Omaha, Nebr., to Salt Lake City, Utah, and Los Angeles, Calif., and points in the Los Angeles Harbor commercial zone, for 180 days. Supporting shipper: National Housewares, Inc., 1260 East Vine Street, Salt Lake City, Utah 84121. Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

By the Commission.

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

[F.R. Doc. 68-10176; Filed Aug. 22, 1968; 8:47 a.m.]

[Notice 195]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 20, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), 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-70360. By order of August 9, 1968, the Transfer Board approved the transfer to Clinton Trucking Co., Inc., East Milton, Mass., of the operating rights in certificate No. MC-59918 issued August 15, 1963, to Max J. Frisch, doing business as Clinton Trucking Co., Clinton, Mass., authorizing the transportation, over regular routes, of general commodities, except those of unusual value, high explosives, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Clinton, Mass., on the one hand, and, on the other, Newark, N.J., and Boston and Worcester, Mass., serving all intermediate points and the off-route point of Middletown, Conn. Francis E. Barrett and Francis P. Barrett, 25 Bryant Avenue, East Milton, Mass. 02186, attorneys for transferee. Morris N. Gould, 77 High Street, Clinton, Mass. 01510, attorney for transferor.

No. MC-FC-70575. By order of August 15, 1968, the Transfer Board approved the transfer to Walton Bulifant, Walton Bulifant, Jr., and Donald Bulifant, executors, doing business as M. Bulifant, Philadelphia, Pa., of a portion of the operating rights in certificate No. MC-39869 issued June 14, 1941, to Edward A. Thompson, Inc., New York, N.Y., authorizing the transportation of: Paper, paper products, and wood pulp, skids and cores, between points in New York, Rhode Island, Pennsylvania, Connecticut, and Massachusetts. Alan Kahn, 2 Penn Center Plaza, Philadelphia, Pa. 19102, attorney for transferee. William D. Traub, 10 East 40th Street, New York, N.Y. 10016, practitioner for transferor.

No. MC-FC-70647. By order of August 12, 1968, the Transfer Board approved the transfer to R. Choiniere Trucking Co., Inc., 207 River Road, Lincoln, R.I. 02865, of the operating rights in certificate No. MC-62849 issued June 21, 1941, to Roland Choiniere, doing business as R. Choiniere Trucking Co., 207 River Road, Lincoln, R.I. 02865, authorizing the transportation, over irregular routes, of canned apples, and raisins, from Boston, Mass., to Saylesville, R.I.; lime from Lime Rock, R.I., to Attleboro, Boston, Fall River, Lawrence, Mansfield, New Bedford, and Taunton, Mass., and points in Rhode Island; lime barrels from Winchester, Mass., to Lime Rock, R.I.; cotton waste, yarn, and thread between Central Falls, Lonsdale, and Pawtucket, R.I., on the one hand, and, on the other, Boston, Chelsea, Malden, and Somerville, Mass.; flour between Pawtucket, Providence, and Saylesville, R.I., on the one hand, and, on the other, Bellingham, Boston, Franklin, Mansfield, New Bedford, Somerville, Taunton, and Whitman, Mass.; and bakers' supplies between Providence, R.I., on the one hand, and, on the other, points in Rhode Island.

No. MC-FC-70708. By order of August 7, 1968, the Transfer Board approved the transfer to Merle D. Hubbard, doing

business as Hubbard Truck Line, 131 Railroad Avenue, Waterville, Kans. 66548, of the operating rights in certificates No. MC–10361 and No. MC–10361 (Sub-No. 1) issued January 14, 1941, and June 4, 1946, respectively, in the name of Ralph Clowe, and trade name added by order of September 2, 1947 (Clowe Truck Lines), Box 351, Marysville, Kans. 66508, authorizing transportation in interstate or foreign commerce, over regular routes, of livestock, and agricultural commodities, between Marysville, Kans., and St. Joseph, Mo., from Marysville over U.S. Highway 36 to St. Joseph; livestock, feed and farm machinery and parts, from St. Joseph, Mo., over the above-specified routes to Marysville; livestock, agricultural commodities and empty containers for petroleum products, over specified routes, between Marysville, Kans., and Kansas City, Mo., household goods and emigrant moveables, between Marysville, Kans., and points and places in Kansas within 15 miles of Marysville on the one hand, and, on the other, points and places in that of Nebraska east of U.S. Highway 281 and south of U.S. Highway. including points and places on the indicated portions of the highways specified; livestock, over irregular routes, from Marysville, Kans., and points and places within 15 miles of Marysville to Omaha, Nebr.; livestock and feed, over irregular routes, from Omaha, Nebr., to Marysville, Kans., and points within 15 miles of Marysville.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–10177; Filed, Aug. 22, 1968; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—AUGUST

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during August.

3 CFR

Page

PROCLAMATIONS:
3860 — 10921
3861 — 10995
3862 — 11973

EXECUTIVE ORDERS:
10485 (see EO 11423) — 11741
10530 (see EO 11423) — 11741
11248 (amended by EO 11421) — 11447
11420 — 10997
11421 — 11447
11422 — 11739
11423 — 11741

5 CFR

180 — 11391
213 — 11392, 11702, 11743
335 — 11360
351 — 11360
752 — 11360
771 — 11360
930 — 11055
2100 — 11535

7 CFR

51 — 11809
52 — 11629, 11881
215 — 11810
301 — 11585, 11630, 11631, 11887, 11890, 11892, 11893, 11985.
319 — 11811
719 — 11811
725 — 11585
728 — 11147, 11541
777 — 11113
811 — 10934
814 — 11703
815 — 10935
842 — 11392
849 — 11057, 11392
906 — 11542
908 — 10936, 11058, 11265, 11449, 11585, 11704, 11896.
910 — 11058, 11392, 11704, 11743
915 — 11586
916 — 11743
922 — 11985
925 — 11331
927 — 11059
929 — 11639
931 — 10936, 11393, 11586

7 CFR—Continued

Page

932 — 11265
944 — 11642
945 — 11743
948 — 11268
958 — 11331
980 — 11642
991 — 10936
993 — 11811
1009 — 10938
1036 — 10938
1041 — 10938
1044 — 10938
1050 — 10939
1062 — 10939
1063 — 10939
1068 — 10939
1070 — 10939
1076 — 10939
1078 — 10939
1079 — 10939
1421 — 11897
1434 — 11705
1443 — 10941
1446 — 11897

PROPOSED RULES:
26 — 11839, 11908
33 — 11663
53 — 11663
68 — 11046
101 — 11669
729 — 11663
916 — 11028
921 — 11781
922 — 11298
923 — 11839
924 — 11781
926 — 11174
947 — 11362, 11715
980 — 10942
981 — 11547, 11715
987 — 11174, 11715, 11716
993 — 11120, 11298
1001 — 12004
1002 — 10978, 12004
1003 — 12004
1004 — 12004
1005 — 11409
1009 — 11908
1015 — 12004
1016 — 11840, 12004
1064 — 12004
1067 — 11600

7 CFR—Continued

Page

PROPOSED RULES—Continued
1104 — 11299
1121 — 11486
1126 — 11486
1130 — 11083
1138 — 11409
1202 — 11716

8 CFR

100 — 11354, 11644
103 — 11644
212 — 11354
238 — 11354
245 — 11644
264 — 11354
319 — 11354
332a — 11354

9 CFR

76 — 10999
83 — 11899
85 — 11587
97 — 11587
201 — 11354, 11825
316 — 11393
317 — 11393
327 — 11836
328 — 11393

PROPOSED RULES:
112 — 11837

10 CFR

0 — 11396
30 — 10924
40 — 10924, 11900
50 — 10924
70 — 10924
170 — 10924, 11587

PROPOSED RULES:
20 — 11413
30 — 11414
31 — 11414
32 — 11414
35 — 11414

12 CFR

1 — 11060
11 — 11587, 11705
12 — 11587, 11705
206 — 11394
207 — 11644
208 — 11812

12 CFR—Continued

Page

250 ... 11813
329 ... 11147
335 ... 11589
400 ... 11646
526 ... 10926
545 ... 11706
561 ... 11261
563 ... 11744

PROPOSED RULES:

501 ... 11717
569a ... 11844

13 CFR

107 ... 11147
108 ... 11147
120 ... 11147, 11652
122 ... 11652

14 CFR

21 ... 11900
39 ... 11114, 11261, 11535, 11536, 11592, 11646, 11714, 11745, 11746, 11975, 11976.
71 ... 11001, 11002, 11147–11150, 11332, 11449, 11450, 11537, 11593, 11747, 11748, 11977.
73 ... 11450, 11748
75 ... 11150, 11451, 11537, 11538, 11748
91 ... 11900, 11977
93 ... 11748
95 ... 11593
97 ... 11003, 11333, 11647, 11978
105 ... 11901
159 ... 11076
378 ... 11076

PROPOSED RULES:

1 ... 11913
25 ... 11913
37 ... 11913
39 ... 10943, 11028
71 ... 11029, 11030, 11175–11177, 11362, 11462–11464, 11547, 11600, 11781–11783.
73 ... 11784
75 ... 11175, 11177, 12009
207 ... 11548
208 ... 11548
211 ... 11464
212 ... 11548
214 ... 11548
221 ... 11548
295 ... 11548
302 ... 11464
399 ... 11464

15 CFR

30 ... 11076
50 ... 11984
366 ... 11355
373 ... 11538
1000 ... 11268, 11706

16 CFR

0 ... 11538
13 ... 10999, 11356, 11596, 11985, 11986
15 ... 11701, 11702, 11986, 11987
153 ... 11987
248 ... 11987

PROPOSED RULES:

240 ... 11549
241 ... 11785
303 ... 11417
418 ... 10948

17 CFR

Page

201 ... 11990
211 ... 11901
240 ... 11015, 11207
241 ... 11150
270 ... 11451

18 CFR

607 ... 11018

PROPOSED RULES:

260 ... 11785

19 CFR

12 ... 11019
16 ... 11543, 11661
22 ... 11990
25 ... 11396

PROPOSED RULES:

31 ... 11455

20 CFR

300 ... 11114
322 ... 11114
325 ... 11114
330 ... 11115
332 ... 11115
335 ... 11115
336 ... 11116
404 ... 11749
405 ... 11273, 11274
422 ... 11280
609 ... 11357
614 ... 11357

21 CFR

1 ... 11902, 11991
3 ... 11813
18 ... 10926
31 ... 11358
42 ... 10927
120 ... 11207, 11814
121 ... 11024, 11077, 11207, 11358, 11903
141 ... 11991
166 ... 11814

PROPOSED RULES:

120 ... 11362
121 ... 11843, 11908
146a ... 11908
146b ... 11908

22 CFR

121 ... 11020
122 ... 11020
123 ... 11020
125 ... 11020

23 CFR

255 ... 11116, 11117, 11652, 11653

24 CFR

3 ... 11815
5 ... 11151
25 ... 11077
201 ... 11151
203 ... 11152
207 ... 11153
213 ... 11154
220 ... 11156
221 ... 11156
222 ... 11161
231 ... 11161
232 ... 11161
233 ... 11162
234 ... 11162

24 CFR—Continued

Page

237 ... 11163
240 ... 11164
241 ... 11164
809 ... 11168
810 ... 11169
1000 ... 11169
1100 ... 11169

25 CFR

88 ... 11539

PROPOSED RULES:

131 ... 11118
141 ... 11837

26 CFR

1 ... 11261, 11997
251 ... 11262

PROPOSED RULES:

1 ... 11027, 11174, 11298, 11546, 11780

28 CFR

0 ... 11117, 11539

29 CFR

11 ... 11452
526 ... 11396
1200 ... 11816
1504 ... 11134
1604 ... 11539

PROPOSED RULES:

526 ... 11175
1501 ... 12008
1502 ... 12008
1503 ... 12008
1504 ... 11135
1505 ... 11138

30 CFR

12 ... 11817

31 CFR

316 ... 11208
332 ... 11244
342 ... 11259, 11539
525 ... 11524
530 ... 11524

PROPOSED RULES:

257 ... 11779

32 CFR

40 ... 11170
84 ... 11903
543 ... 11819
754 ... 11397
882 ... 11021
888b ... 11022
888c ... 11022
931 ... 12001

32A CFR

OEP (Ch. I):
DMO 3000.1 ... 10927
BDSA (Ch. VI):
M–11A ... 11597
M–11A, Dir. 2 ... 11596
OIA (Ch. X):
Reg. 1 ... 11262

33 CFR

110 ... 11079
117 ... 11000, 11543, 11544
204 ... 10930
207 ... 11544

36 CFR

Page

7 ... 11358
251 ... 11452, 11653

PROPOSED RULES:

7 ... 10942, 11546

37 CFR

PROPOSED RULES:

1 ... 11092

38 CFR

2 ... 11597
3 ... 12001
8 ... 12002
17 ... 11080

39 CFR

113 ... 11775
121 ... 11597
135 ... 11170, 11263, 11359, 11598
145 ... 11598
163 ... 11453
221 ... 11598
222 ... 11598
521 ... 11061
522 ... 11070
523 ... 11072
524 ... 11074
525 ... 11075
526 ... 11075
531 ... 11599
535 ... 11599
742 ... 10930

41 CFR

1–2 ... 10930
1–30 ... 10930
4–1 ... 11763
4–3 ... 11764
4–4 ... 11764
4–6 ... 11765
4–7 ... 11766
4–8 ... 11766
4–14 ... 11766
4–15 ... 11766
4–16 ... 11766
5A–1 ... 11767
5A–16 ... 11767
8–1 ... 10931
8–7 ... 10931
8–12 ... 10931
11–1 ... 11170, 11171
11–2 ... 11397
11–3 ... 11171

41 CFR—Continued

Page

11–7 ... 11398
11–10 ... 11172
11–12 ... 11171
11–16 ... 11172, 11397, 11398
11–17 ... 11397
11–50 ... 11398
101–47 ... 12003

42 CFR

51 ... 11359

43 CFR

4120 ... 11516

PUBLIC LAND ORDERS:

882 (revoked in part by PLO 4508) ... 11398
1426 (revoked by PLO 4512) ... 11654
1760 (revoked in part by PLO 4508) ... 11398
1817 (revoked in part by PLO 4514) ... 11655
2298 (revoked in part by PLO 4510) ... 11654
2729 (revoked in part by PLO 4515) ... 11655
4501 (corrected) ... 11360
4506 ... 10932
4507 ... 10932, 11713
4508 ... 11398
4509 ... 11654
4510 ... 11654
4511 ... 11654
4512 ... 11654
4513 ... 11654
4514 ... 11655
4515 ... 11655
4516 ... 11820
4517 ... 11903

44 CFR

401 ... 11023

45 CFR

12 ... 11399
118 ... 11281
119 ... 11403
177 ... 11539
178 ... 11540
203 ... 11290
600 ... 11904

46 CFR

222 ... 10933
310 ... 11767
350 ... 11702
355 ... 11000
500 ... 11767

46 CFR—Continued

Page

502 ... 11080
510 ... 11172
522 ... 11655

PROPOSED RULES:

Ch. II ... 11547

47 CFR

1 ... 11820
17 ... 11540
19 ... 11821
21 ... 11291
73 ... 11294, 11297, 11540
81 ... 11541
83 ... 11541
87 ... 10928
93 ... 11771
202 ... 10929

PROPOSED RULES:

2 ... 10943, 11031, 11669
73 ... 11031, 11178–11180, 11549, 11601, 12009
74 ... 11716
81 ... 11031, 11669
83 ... 11031, 11669
85 ... 11669
87 ... 11299
89 ... 10943
91 ... 10943
93 ... 10943
95 ... 11180

49 CFR

1 ... 11405, 11821
99 ... 11405
1033 ... 11453, 11713

PROPOSED RULES:

172 ... 11121
173 ... 11121
294 ... 11933
Ch. X ... 11119
1056 ... 12010

50 CFR

10 ... 11000, 11407, 11453
28 ... 11407, 11713
32 ... 10933, 10934, 11173, 11263, 11453, 11454, 11599, 11660, 11661, 11713, 11822–11824, 11904–11906.
33 ... 11907

PROPOSED RULES:

32 ... 11118, 11546, 12008
33 ... 10942