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TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10723

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE GENERAL MANAGERS' ASSOCIATION OF NEW YORK REPRESENTING THE NEW YORK CENTRAL RAILROAD, NEW YORK, NEW HAVEN & HARTFORD RAILROAD COMPANY, BROOKLYN EASTERN DISTRICT TERMINAL, JAY STREET CONNECTING RAILROAD, NEW YORK DOCK RAILWAY, BUSH TERMINAL RAILROAD, BALTIMORE & OHIO RAILROAD COMPANY, THE PENNSYLVANIA RAILROAD, ERIE RAILROAD COMPANY, READING COMPANY, DELAWARE, LACKAWANNA & WESTERN RAILROAD, AND THE CENTRAL RAILROAD COMPANY OF NEW JERSEY, AND CERTAIN OF THEIR EMPLOYEES

WHEREAS a dispute exists between the General Managers' Association of New York representing the New York Central Railroad, New York, New Haven & Hartford Railroad Company, Brooklyn Eastern District Terminal, Jay Street Connecting Railroad, New York Dock Railway, Bush Terminal Railroad, Baltimore & Ohio Railroad Company, the Pennsylvania Railroad, Erie Railroad Company, Reading Company, Delaware, Lackawanna & Western Railroad, and the Central Railroad Company of New Jersey, carriers, and certain of their employees represented by the International Organization of Masters, Mates and Pilots, Inc., a labor organization; and

WHEREAS this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service;

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U. S. C. 160), I hereby create a board of three members, to be appointed by me, to investigate the said dispute. No member of the said board shall be pecuniarily or otherwise interested in any organization of railway employees or any carrier.

The board shall report its findings to the President with respect to the said dispute within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the General Managers' Association of New York representing the New York Central Railroad, New York, New Haven & Hartford Railroad Company, Brooklyn Eastern District Terminal, Jay Street Connecting Railroad, New York Dock Railway, Bush Terminal Railroad, Baltimore & Ohio Railroad Company, the Pennsylvania Railroad, Erie Railroad Company, Reading Company, Delaware, Lackawanna & Western Railroad, and the Central Railroad Company of New Jersey, carriers, or by their employees, in the conditions out of which the said dispute arose.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
August 6, 1957.

[F. R. Doc. 57-6540; Filed, Aug. 7, 1957; 10:14 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

Subchapter A—Armed Services Procurement Regulations

[Amdt. 20]

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The following miscellaneous amendments have been made to this subchapter:

PART 1—GENERAL PROVISIONS

SUBPART A—INTRODUCTION

Section 1.110 has been revised as follows:

§ 1.110 *Reports of purchases and contracts.* Periodic and special reports on purchases and contracts are prescribed by the Department of Defense. These reports are designed to meet statutory and other Congressional requirements, requirements of Federal agencies, and provide all levels of management with data on which to formulate procurement policy as well as to determine the extent

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EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

of adherence to prescribed policy. Basic to the preparation of all these regular and special reports, so far as they affect individual contracting officers, is DD Form 350 (Individual Procurement Action Report) (§ 16.807). Each item of this form enters into the preparation of reports furnished the President, the Congress, and other Federal agencies, and is used for management purposes within the Department of Defense. The accuracy, completeness, and timeliness of these reports are fully dependent on the careful preparation and prompt submission of DD Form 350.

SUBPART B—DEFINITION OF TERMS

In further implementation of the Single Manager Plans, the Military Supply Agencies for Petroleum (21 F. R. 6577) and Medical Supplies (21 F. R. 4362) have each been designated by the Department of the Navy as Procuring Activities and the Executive Directors have been designated as Heads of Procuring Activities within the meaning of §§ 1.201–3 and 1.201–4, which have been amended accordingly. Sections 1.201–3 and 1.201–4, as revised, read as follows:

§ 1.201–3 *Procuring activity.* The term "procuring activity" includes, for the Army, the technical services, the continental armies, the National Guard Bureau, the Military District of Washington, and the major oversea commands; for the Navy, each Bureau of the Navy Department, the Office of Naval Research, the Aviation Supply Office, the Military Sea Transportation Service and the United States Marine Corps; for the Air Force, the Air Matériel Command. It also includes the Military Medical Supply Agency, the Military Petroleum Supply Agency, and any other procuring activity hereafter established. The number and designation of particular procuring activities of any Department may be changed by directive of the Secretary of that Department.

§ 1.201–4 *Head of a procuring activity.* The term "Head of a Procuring Activity" includes, for the Army, the chiefs of the technical services, the continental army commanders, the Chief of the National Guard Bureau, the Commanding General of the Military District of Washington, and the commanding generals of the major oversea commands; for the Navy, the Chief of each Bureau, the Chief of Naval Research, the Aviation Supply Officer, the Commander, Military Sea Transportation Service, and the Commandant of the United States Marine Corps; for the Air Force, the Commanding General of the Air Matériel Command. It also includes the Executive Director of the Military Medical Supply Agency, the Executive Director of the Military Petroleum Supply Agency, and the head of any other procuring activity hereafter established. The number and designation of Heads of Procuring Activities within any Department may be changed by directive of the Secretary of that Department.

SUBPART C—GENERAL POLICIES

1. Section 1.300 has been revised by adding paragraphs (g), (h) and (i). Section 1.300, as revised, reads as follows:

§ 1.300 *Scope of subpart.* This subpart sets forth general policies with respect to (a) methods of procurement, (b) sources of supply (including governmental and foreign sources), (c) types of contracts, (d) specifications, (e) transportation costs, (f) responsible prospective contractors, (g) priorities, allocations, and allotments, (h) preference for United States-flag privately owned ocean carriers, and (i) procurement by barter.

2. Section 1.302–3 has been revised by the deletion of the phrase in parentheses in the first sentence; the deletion of the annual report requirement, and insertion of references to §§ 1.110 and 16.807 regarding report requirements. Section 1.302–3, as revised, reads as follows:

§ 1.302–3 *Small business concerns.* It shall be the policy of each Department to place with small business concerns a fair proportion of the total procurement of supplies and services for that Department. As a means of carrying out this policy, and when not clearly to the disadvantage of the Department, the procurement of supplies or services shall be divided into such reasonably small lots as will enable and encourage small business concerns to make bids or proposals on such supplies or services or on portions thereof. Each Department is required to maintain a record of the total value of all contracts placed by it during each fiscal year with small business concerns. These records, and reports based thereon, are maintained through the Department of Defense procurement reporting system described in § 1.110 and § 16.807 of this subchapter. To this end, each Department shall, in soliciting bids or proposals, request any information needed to determine whether the bidder or offeror is a small business concern.

3. Section 1.304 *Types of contracts* has been deleted, and § 1.304 is now "Reserved".

PART 2—PROCUREMENT BY FORMAL ADVERTISING

SUBPART A—USE OF FORMAL ADVERTISING

1. A new § 2.104 has been added to this Subpart A, as follows:

§ 2.104 *Types of contracts.* Customarily, contracts for supplies or services awarded after formal advertising will be of the firm fixed-price type. However, at times, some flexibility will be necessary and feasible; thus, alternative types of contracts are described below.

§ 2.104–1 *Firm fixed-price contracts.* See § 3.403–1 of this subchapter.

§ 2.104–2 *Fixed-price contracts with escalation.* See § 3.403–2 of this subchapter. Where escalation is desirable in connection with a formally-advertised procurement, a fixed-price contract with escalation may be entered into if (a) the applicable escalation clause, with an escalation ceiling identical for all bidders, is set forth in the invitation for bids, and (b) each bidder is afforded an equal opportunity to bid on the escalation basis. However, the absence of an escalation clause in the invitation for bids will not preclude consideration of a bid providing for escalation with a ceiling; provided, in evaluating such a bid, the maximum escalation is added to the bid price.

§ 2.104–3 *Indefinite delivery type contracts*—(a) *Definite quantity contract.* See § 3.405–5 (a) of this subchapter; however, price redetermination will not be used.

(b) *Requirements contract.* See § 3.405–5 (b) of this subchapter; however, price redetermination will not be used.

(c) *Indefinite quantity contract.* See § 3.405–5 (c) of this subchapter; however, price redetermination will not be used.

SUBPART B—SOLICITATION OF BIDS

2. Section 2.201 has been amended as follows: Paragraph (c) (14) has been revised, and a new (15) has been added. Section 2.201, as revised, reads as follows:

§ 2.201 *Preparation of forms.* The form or forms to be used in the solicitation of bids (see Part 16, Subpart A, of this subchapter) should contain substantially the following information and any other information required by procedures prescribed by each respective Department.

(a) *Invitation for bids.* (1) Invitation number.

(2) Name and address of issuing activity.

(3) Date of issuance.

(4) Date, hour, and place of opening.

(b) *Bid.* Bid blanks are to be filled in by the bidder, and each bid is to be executed in accordance with instructions to bidders.

(c) *Schedule.* (1) Number of pages.

(2) Requisition (or other purchase authority), appropriation, and accounting data.

(3) Discount provisions (including the removal of or changes in standard discount provisions whenever it is expected that prompt-payment discounts cannot be taken according to a time schedule set forth in the printed form).

(4) Quantity of supplies or services to be furnished under each item, and any provision for quantity variation.

(5) Description of supplies or services to be furnished under each item, such description to be in accordance with the provisions of § 1.305 of this subchapter relating to specifications, and § 2.201 (d) relating to availability and identification of specifications, and with procedures prescribed by each respective Department.

(6) Whenever specifications require prior testing and qualification of products, the right to reject bids offering products which do not meet this requirement of prior testing and qualification must be expressly reserved either in the specification itself or in the schedule (see § 2.505–2).

(7) Time, place, and method of delivery (see § 1.306).

(8) Permission, if any, to submit telegraphic bids.

(9) Permission, if any, to submit alternative bids, including alternative materials or designs.

(10) Requirement, in the case of advertising for the construction of Naval vessels, that the bidder file with his bid the estimates on which the bid is based.

(11) Preservation, packaging, packing, and marking requirements, if any.

(12) Place, method, and conditions of inspection.

(13) Bond and surety requirements, if any.

(14) Any authorized special provisions relating to such matters as progress payments, patent licenses, liquidated damages, profit limitations, etc.

(15) Any authorized special provisions relating to Government-furnished property proposed to be furnished for the performance of the contract; and, in addition, a provision that if the bidder plans to use, in performing the work bid upon, any items of Government property in the bidder's possession under a facilities contract or other agreement independent of the Invitation for Bids, the bidder shall so state in the bid, and upon request of the contracting officer, submit evidence that a facilities contract or other separate agreement authorizes the bidder to use each item of such Government property for performing the work bid upon.

SUBPART C—SUBMISSION OF BIDS

3. Procedures for handling of late bids have been considerably revised in an amended § 2.302. The new procedure is summarized as follows: (1) Determinations shall be in writing and specified records maintained; (2) the date and hour on a cancellation stamp of a mailed bid is generally conclusive as to the time of mailing; (3) where the date and hour is not stamped, procedures differ depending upon whether the bid is mailed by registered and certified mail, or ordinary mail. With respect to the former, the date and hour of mailing will be ascertained from the post office; ordinary mail will not be opened nor the bid considered for award; (4) where the cancellation stamp on ordinary mail shows only the date but not the hour of mailing, the bid will be considered as having been mailed after 2359 hours on the date indicated, and information concerning the normal time for mail delivery shall be obtained from designated post officials. Section 2.302, as revised, reads as follows:

§ 2.302 *Time of submission.* Bidders shall submit their bids so as to reach the designated office not later than the specified time for opening. Bids received thereafter are late bids. Late bids shall be considered (a) if received before award, and (b) if it is determined that the failure to arrive on time was due solely to delay in the mails for which the bidder was not responsible; otherwise, they shall be held unopened until award has been made, and then returned to the bidder.

§ 2.302–1 *Determination concerning late bids.* Determinations concerning late bids shall be made in writing by the contracting officer, or a duly authorized representative for that purpose. As a rule, the date and hour shown on the cancellation stamp affixed by the post office or by an approved metering device shall be considered as the time of mailing. However, (a) as to registered and certified mail, the date and hour of mailing when not shown on the cancellation stamp shall be obtained from the postal authorities indicated below; and (b) as to non-registered and non-certified mail, when the date of mailing cannot be determined by inspection of the envelope the bid shall not be considered for award; and when the stamp shows the date but not the hour of mailing, the bid shall be considered as having been mailed at the last minute of the date shown. Information necessary for the determination, concerning the date and hour of mailing registered and certified mail as required by paragraph (a) of this section and the normal time for mail delivery, shall be obtained from the Postmaster, Superintendent of Mails, or a duly authorized representative for that purpose, of the post office serving the purchasing activity. When time permits and the contracting officer deems it advisable, such information shall be obtained in writing.

§ 2.302–2 *Records.* The contract file shall include with respect to each late bid: (a) The date and hour of mailing (determined as provided in § 2.302–1) and date and hour of receipt by the purchasing activity; (b) the determination as to whether the late bid should or should not be considered, and the facts supporting it; (c) the disposition of the bid; and (d) the envelope of any late bid that is considered for award.

PART 3—PROCUREMENT BY NEGOTIATION

Paragraph (g) has been added to § 3.000. Section 3.000, as revised, reads as follows:

§ 3.000 *Scope of part.* This part sets forth, on the basis of the provisions of and authority contained in the act, (a) the basic requirements for the procurement of supplies and services by means of negotiation, (b) the different circumstances under which negotiation is permitted, (c) determinations and findings that may be required to be made before a contract is entered into by negotiation, (d) approved types of negotiated contracts and their use, (e) the authority for making advance payments under negotiated contracts, (f) procedures for affecting purchases not in excess of $1,000 (g) procedures for negotiating overhead rates, and (h) price negotiation policies and techniques.

SUBPART A—USE OF NEGOTIATION

1. Section 3.103 has been amended to incorporate cross-references to §§ 1.110 and 16.807. Section 3.103, as revised, reads as follows:

§ 3.103 *Records and reports of negotiated contracts.* In addition to the records and reports described in § 1.302–3 of this subchapter and §§ 3.211–4 and 3.216–4, each Department is required to maintain a record of the total value of all contracts negotiated by it during each fiscal year under each of the circumstances permitting negotiation enumerated in Subpart B of this part. These records, and reports based thereon, are maintained through the Department of Defense procurement reporting system described in §§ 1.110 and 16.807 of this subchapter.

2. Section 3.107–2 (b) has been revised to add a cross-reference to § 3.805. Section 3.107–2 (b) as revised reads as follows:

§ 3.107–2 *Procedure* * * *

(b) In the event it is determined by such other authority that it is in the best interest of the Government to consider the late proposal, the contracting officer shall resolicit all firms (consistent with § 3.805) which have submitted proposals and have been determined to be capable of meeting requirements.

3. The legend which a supplier is authorized to insert in his proposal restricting the disclosure of data in proposals, has been revised so that there cannot be any implication (i) that any license under patent is thereby granted to the Government or (ii) that the supplier warrants title to the data. Section 3.109, as revised, reads as follows:

§ 3.109 *Restrictions on disclosure of data in proposals.* (a) Requests for proposals may require the offeror to submit data with its proposal which may include a design or plan for accomplishing the objectives of the procurement. Such data may include information which the offeror does not want disclosed to the public or used by the Government for any purpose other than evaluation of the proposals. Offerors shall mark each sheet of data which they so wish to restrict with the legend set forth below:

This data furnished in response to RFP No. ----------, shall not be disclosed outside the Government or be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the proposal, *Provided*, That if a contract is awarded to this offeror as a result of or in connection with the submission of such data, this legend shall be of no force or effect; and the Government shall

have the right to use the data for any purpose except as otherwise provided in the contract. This restriction does not limit the Government's right to use information contained in such data if it is obtained from another source.

Contracting officers shall not refuse to consider any proposal merely because data submitted with that proposal is so marked. Data so marked shall be used only to evaluate proposals and shall not be disclosed outside the Government without the written permission of the offeror except under the conditions provided in the legend. With respect to contracts for experimental, developmental, or research work, see § 9.112.

(b) The provisions of paragraph (a) of this section do not apply to procurements by formal advertising.

SUBPART B—CIRCUMSTANCES PERMITTING NEGOTIATION

1. Paragraph (n) has been added to § 3.210–1 as follows:

§ 3.210–1 *Authorization.* * * *

(n) When, under the procedures set forth in joint regulation DOD 4145.16–R, AR 743–455, NAVSANDA PUB 297, AFR 67–61, and NAVMC 1133, the contract is for storage (and related services) of household goods.

2. Section 3.211–4 has been amended by adding a cross reference to §§ 1.110 and 16.807. Section 3.211–4, as amended, reads as follows:

§ 3.211–4 *Records and reports.* Each Department shall maintain a record of the name of each contractor with whom a contract has been entered into pursuant to the authority of this paragraph, together with the amount of the contract and (with due consideration given to the national security) a description of the work required to be performed thereunder. These records, and reports based thereon, will be maintained through the Department of Defense procurement reporting system described in §§ 1.110 and 16.807 of this subchapter.

3. Sections 3.213–2, 3.213–3 and 3.213–4 have been changed to revise and codify the provisions of DOD Directive 4105.42. Changes include deletion of the requirements that the supplies be "commercial-type" and that "parts" be either "spare" or "component". Sections 3.213–2, 3.213–3 and 3.213–4 as revised, read as follows:

§ 3.213–2 *Application.* (a) This authority may be used for procuring additional units and replacement items of specified makes and models of technical equipment and parts; which are for tactical use or for use outside the continental United States, in theaters of operations, on board naval vessels, or at advanced or detached bases; and which have been adopted as standard items of supply in accordance with procedures prescribed by each respective Department. A current or recurring procurement requirement for the item shall be present. This authority would apply, for example, whenever it is necessary:

(1) to limit the variety and quantity of parts that must be carried in stock;

(2) to make possible, by standardization, the availability of parts that may be interchanged among items of damaged equipment during combat or other emergency; or

(3) to procure from selected suppliers technical equipment which is available from a number of suppliers but which would have such varying performance characteristics (notwithstanding detailed specifications and rigid inspection) as would prevent standardization and interchangeability of parts.

(b) Before making a determination to procure specified makes and models under this authority, consideration shall be given to:

(1) The feasibility of economical and timely deployment on a selected geographic basis of makes and models already in supply systems;

(2) The feasibility of timely standardization of components and parts under the Defense Standardization Program;

(3) The effect upon the capability of industry to produce mobilization requirements of all Departments;

(4) The practicability of interchanging parts and cannibalizing equipment;

(5) The probability that future procurement of the selected item of equipment can be effected at reasonable prices;

(6) Whether the standardization will appreciably reduce the variety and quantity of parts that must be carried in stock;

(7) The value of similar equipment and its supporting parts on hand;

(8) The contribution of the standardization to combat support;

(9) Possible savings in training personnel and publishing technical literature;

(10) Whether the standardization will adversely affect existing coordinated military specifications and standards; and

(11) The degree to which the current design of the specified make and model has been changed from the design of equipment of the same make and model now in the supply system.

(c) In arriving at determinations to standardize under this authority, the originating Department shall consult with the other Departments in order to assure the full benefit of the standardization.

(d) Actions taken under this authority shall be reviewed by the originating Department at least once every two years to determine whether the standardization should be continued, revised, or cancelled.

§ 3.213–3 *Limitation.* This authority shall not be used for initial procurements of equipment and parts, or for the purpose of selecting arbitrarily the equipment of certain suppliers; nor shall it be used unless the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part, that:

(a) The equipment constitutes technical equipment;

(b) Standardization of such equipment and interchangeability of its parts are necessary in the public interest; and

(c) Procurement of such equipment or of its parts by negotiation is necessary to assure that standardization and interchangeability.

§ 3.213–4 *Records and reports.* Each Department shall maintain on a current basis a master list of items for which determinations and findings have been made under this authority.

4. Section 3.216–4 has been amended to include a cross-reference to §§ 1.110 and 16.807, as follows:

§ 3.216.4 *Records and reports.* Each Department shall maintain a record of the name of each contractor with whom a contract has been entered into pursuant to the authority of this paragraph, together with the amount of the contract and (with due consideration given to the national security) a description of the work required to be performed thereunder. These records, and reports based thereon, will be maintained through the Department of Defense procurement reporting system described in §§ 1.110 and 16.807 of this subchapter.

SUBPART D—TYPES OF CONTRACT

A new § 3.405–5 augments this Subpart D, of this Part 3, setting forth policies relating to Indefinite Delivery Contracts. Such contracts are divided into three groups: (i) Definite quantity; (ii) requirements; (iii) indefinite quantity (with minimum definite quantity). Section 3.405–5 reads as follows:

§ 3.405–5 *Indefinite delivery type contracts.* One of the following indefinite delivery type contracts may be used for procurements where the exact time of delivery is not known at time of contracting.

(a) *Definite quantity contracts*—(1) *Description.* This type of contract provides for a definite quantity of specified supplies or for the performance of specified services for a fixed period, with deliveries or performance at designated locations upon order. Depending on the situation, the contract may provide for: (i) Firm fixed-prices, (ii) price escalation, or (iii) price redetermination.

(2) *Applicability.* This type of contract is particularly suitable for use where it is known in advance that a definite quantity of supplies or services will be required during a specific period and are regularly available or will be available after a short lead time. Advantages of this type of contract are that it permits stocks in storage depots to be maintained at minimum levels and permits direct shipment to the user.

(b) *Requirements contract*—(1) *Description.* This type of contract provides for filling all actual purchase requirements of specific supplies or services of designated activities during a specified contract period with deliveries to be scheduled by the timely placement of orders upon the contractor by activities designated either specifically or by class. Depending on the situation, the contract may provide for: (i) Firm fixed-prices, (ii) price escalation, or (iii) price redetermination. An estimated total quantity is stated for the information of prospective contractors, which estimate should be as realistic as possible. The estimate may be obtained from the records of previous requirements and consumption, or by other means. Care should be used in writing and administering this type of contract to avoid

imposition of an impossible burden on the contractor. Therefore, the contract shall state, where feasible, the maximum limit of the contractor's obligation to deliver and, in such event, shall also contain appropriate provision limiting the Government's obligation to order. When large individual orders or orders from more than one activity are anticipated, the contract may specify the maximum quantities which may be ordered under each individual order or during a specified period of time. Similarly, when small orders are anticipated, the contract may specify the minimum quantities to be ordered.

(2) *Applicability.* A requirements contract may be used for procurements where it is impossible to determine in advance the precise quantities of the supplies or services that will be needed by designated activities during a definite period of time. Advantages of this type of contract are:

(i) Flexibility with respect to both quantities and delivery scheduling;

(ii) Supplies or services need be ordered only after actual needs have materialized;

(iii) Where production lead time is involved, deliveries may be made more promptly because the contractor is usually willing to maintain limited stocks in view of the Government's commitment;

(iv) Price advantages or savings may be realized through combining several anticipated requirements into one quantity procurement; and

(v) It permits stocks to be maintained at minimum levels and allows direct shipment to the user.

Generally, the requirements contract is appropriate for use when the item or service is commercial or modified commercial in type and when a recurring need is anticipated.

(c) *Indefinite quantity contract*—(1) *Description.* This type of contract provides for the furnishing of an indefinite quantity, within stated limits, of specific supplies or services, during a specified contract period, with deliveries to be scheduled by the timely placement of orders upon the contractor by activities designated either specifically or by class. Depending on the situation, the contract may provide for: (i) Firm fixed-prices; (ii) price escalation, or (iii) price redetermination. The contract shall provide that during the contract period the Government shall order a stated minimum quantity of the supplies or services and that the contractor shall furnish such stated minimum and, if and as ordered, any additional quantities not exceeding a stated maximum which should be as realistic as possible. The maximum may be obtained from the records of previous requirements and consumption, or by other means. When large individual orders or orders from more than one activity are anticipated, the contract may specify the maximum quantities which may be ordered under each individual order or during a specified period of time. Similarly, when small orders are anticipated, the contract may specify the minimum quantities to be ordered.

(2) *Applicability.* An indefinite quantity contract may be used where it is impossible to determine in advance the precise quantities of the supplies or services that will be needed by designated activities during a definite period of time and it is not advisable for the Government to commit itself for more than a minimum quantity. Advantages of this type of contract are:

(i) Flexibility with respect to both quantities and delivery scheduling;

(ii) Supplies or services need be ordered only after actual needs have materialized;

(iii) The obligation of the Government is limited; and

(iv) It permits stocks to be maintained at minimum levels and allows direct shipment to the user.

The indefinite quantity contract should be used only when the item or service is commercial or modified commercial in type and when a recurring need is anticipated.

PART 4—COORDINATED PROCUREMENT

Sections 4.101–5, 4.206–1 and 4.208 have been amended and § 4.209 deleted to conform to DoD Instruction 4000.17, which separates interdepartmental stock transfers from the coordinated procurement program, provides for proper citation of appropriations and funds, and sets permissible limits of deviations from authorized funding. The MIPR will no longer be used as a supply requisition. Sections 4.101–5, 4.206–1 and 4.208, as revised, read as follows.

SUBPART A—DEFINITION OF TERMS

§ 4.101–5 *Military interdepartmental purchase request.* This term, hereinafter referred to as "MIPR," refers to DD Form 448 (Military Interdepartmental Purchase Request) (see § 16.601 of this chapter) executed by a Requiring Department as a request for supplies to be procured or furnished by the Procuring Department, or to be manufactured in its own facilities.

SUBPART B—POLICIES AND GENERAL PRINCIPLES

§ 4.206 *Purchase authorization.*

§ 4.206–1 *MIPR's or other authorized procurement requests.* (a) Military Interdepartmental Purchase Requests or other authorized procurement requests (see Part 16, Subpart F, of this subchapter), when received by the Procuring Department, shall be the authority to procure the supplies listed thereon in accordance with agreements between the Departments concerned. The Procuring Department has no responsibility to determine the validity of a stated requirement in an approved procurement request; however, it should bring to the attention of the Requiring Department apparent errors in the requirement.

(b) In Coordinated Procurement, the Procuring Department is authorized without referral to the Requiring Department, to deviate by 3 percent of the amount stated for each accounting classification, provided that the sum of such deviation does not exceed 3 percent of the total amount cited in the MIPR. The Procuring Department is authorized to deviate by more than 3 percent in specific assigned commodity areas where mutual agreement has been reached and so indicated in the implementing procedures in accordance with DOD Directive 4115.28. This authorization will remain available to the Procuring Department until acceptance is completed or in the case of direct-citation procurement until contract placement is completed, at which time any excess funds on the MIPR will be rescinded by the Requiring Department without the issuance of a formal amendment to the MIPR. The Requiring Department will authorize the percent variation on each MIPR, and will reserve a net amount sufficient to provide for such variation. If the deviation exceeds this percentage, referral to the Requiring Department will be necessary.

§ 4.208 *Funds and payments.*

§ 4.208–1 *Citation of appropriation and funds of requiring department.* Contracts and orders shall cite the appropriations or funds of the Requiring Department unless it is not considered feasible and economical to relate payments directly to the end item and ultimate use of the material under procurement. The Procuring Department will, for each commodity, determine which type of funding (Direct Citation or Consolidated-Reimbursable Procurement) will generally be used. The conditions under which it is considered not feasible to cite the funds of the Requiring Department are:

(a) Procurement of the end item involves separate procurement of components to be assembled by the Procuring Department.

(b) At the time of acceptance of the purchase request (MIPR), it is not considered feasible to identify specific quantities of the end item with the respective Requiring Department because of the possibility of allocation of the material upon a different basis as completed items are delivered.

(c) Payments will be made without reference to deliveries of end items; for example, cost plus fixed fee contracts, and fixed price contracts with progress payment clauses.

§ 4.208–2 *Citation of funds of procuring department.* In cases where citation of the funds of the Requiring Department is not feasible, funds of the Procuring Department will be cited subject to reimbursement upon delivery to the Requiring Department. In those cases, contracts and orders will provide for payment by the Procuring Department.

§ 4.209 [Reserved.]

PART 5—INTERDEPARTMENTAL PROCUREMENT

A new Subpart H to Part 5, reflects a revision of the understanding between GSA and DoD relative to procurement of utility services. In a letter dated 10 January 1957, the Administrator, General Services, described the effect of this revision as follows: "It is our understanding that this amendment will permit the military departments to negotiate special rates where those are appropriate. It is understood that where negotiations do not lead to the adoption of special rates for service condi-

tions that your departments will continue to utilize the GSA area-wide contract."

SUBPART H—PROCUREMENT OF CERTAIN UTILITY SERVICES BY USE OF GENERAL SERVICES ADMINISTRATION AREA CONTRACTS

§ 5.801 *General.* The General Services Administration enters into indefinite delivery type area contracts with various utility companies for the furnishing of electricity, natural and manufactured gas distributed by pipes, steam, sewerage, or water to all, or substantially all, Government agencies located within specified areas. GSA area contracts provide that the contractor will, upon receipt of an order in the form prescribed by the contract, furnish, without further negotiation as to rates and charges, the services involved in accordance with such of its established and filed rate schedules as are applicable to the service.

§ 5.802 *Distribution of GSA Public Utility Schedules and related publications.* A list of the utility services obtainable under GSA area contracts, including the area served and the name of the contractor invloved, is contained in GSA Circular No. 61, Revised. GSA also has available for use with each area contract a Public Utility Schedule which includes the required order form. Copies of GSA Circular No. 61 and GSA Public Utility Schedules may be obtained, upon request, from Public Utilities Division, Transportation and Public Utilities Service, General Services Administration, Washington 25, D. C.

§ 5.803 *Department of Defense use of GSA area contracts.* (a) Where GSA area contracts are adequate to meet the requirements of Department of Defense activities for utility services, such services shall be procured thereunder. In determining whether a GSA area contract is adequate to meet the requirements of the using activity, consideration should be given to (1) the area contract rates viewed in light of the magnitude of the service required, (2) any unusual characteristics of the service required, (3) any special equipment or facility requirements, (4) any special technical contract provisions required, and (5) any other special circumstances.

(b) Where it is determined by the Department concerned that GSA area contracts do not meet the requirements of the using activity, the utility services shall be procured in accordance with § 16.501 of this subchapter.

§ 5.804 *Ordering under area contracts.* When utility services are procured under GSA area contracts, the method of ordering prescribed in the appropriate GSA Public Utility Schedule shall be used. The form prescribed for ordering may be modified to satisfy fiscal and administrative requirements of the Department concerned, and to contain such additional contract provisions as may be necessary, except that it shall not be modified for use as a public voucher in lieu of Standard Form 1034. Since GSA area contracts do not contain the Gratuities clause (§ 7.104–16 of this subchapter) the clause shall be included in the order form.

PART 7—CONTRACT CLAUSES

SUBPART A—CLAUSES FOR FIXED-PRICE SUPPLY CONTRACTS

1. Section 7.104–9 has been revised as follows:

§ 7.104–9 *Copyright.* In accordance with the requirements of Subpart B of Part 9 of this subchapter, insert one of the contract clauses set forth in § 9.203 or § 9.204, as appropriate.

2. Amendments to the first paragraph of § 7.104–12 now requires wider distribution of DD Form 254 "Security Requirements Check List", when directed by departmental procedures, as follows:

§ 7.104–12 *Military security requirements.* Insert the following clause in all contracts which are classified by a Department as "Confidential," including "Confidential—Modified Handling Authorized," or higher and in any other contracts the performance of which will require access to such classified information or material, except that this clause shall not be used in contracts performed outside the continental United States, its territories and possessions. In those cases where the situation so warrants because of the nature of the item, or conditions under which it is to be produced, the contract shall provide and establish by a separate contract provision such additional security safeguards as may be required for the protection of that item. When the "Military Security Requirements" clause is inserted in any contract, the contracting officer or his authorized representative shall prepare and transmit to the contractor, material inspector, and such other interested agencies as may be determined by the Departments, a Security Requirements Check List (DD Form 254) in accordance with § 16.811 of this subchapter.

(R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21, sec. 638, 66 Stat. 537; 41 U. S. C. 151–162)

PART 9—PATENTS, COPYRIGHTS, AND TECHNICAL DATA

1. Section 9.107–2 has been amended so as to (1) clarify the fact that it is not necessary to forward all requests for deviations from the applicable contract provisions to the Atomic Energy Commission, but only those which a Department proposes to utilize in a contract; and (2) provisions relating to the retention of license rights may not be included except after approval by the Commission. The paragraph now identifies more particularly those situations in which the Commission is now granting deviations permitting retention of patent rights. Section 9.107–2, as revised, reads as follows:

§ 9.107–2 *Contracts relating to atomic energy.* The paragraph set forth below shall be inserted as part of the Patent Rights clause prescribed by § 9.107–1 in all research or development contracts relating to atomic energy. In appropriate instances, as where the work to be performed or the material or equipment to be furnished by the contractor is of such character that any such Subject Inventions that may be made will probably (a) relate only incidentally (and not directly) to some phase of the basic research or development work which the Atomic Energy Commission conducts or sponsors, (b) relate to a field or work in which the contractor has an established industrial and patent position, or (c) result from routine development or production work by the contractor, a provision authorizing the contractor to retain license rights may be incorporated in the paragraph set forth below upon the concurrence of the Atomic Energy Commission. Any such provision or other deviation from the paragraph set forth below, which the Department concerned intends to authorize, shall be forwarded in accordance with Departmental procedures to the Atomic Energy Commission for recommendation and shall not be authorized except with the concurrence of the Atomic Energy Commission.

(j) With respect to any Subject Invention made by employees of the Contractor (except clerical and manual labor personnel who do not have access to technical data), and relating to the production or utilization of special nuclear material or atomic energy within the purview of the Atomic Energy Acts of 1946 (42 U. S. Code 1801–1819) and of 1954 (42 U. S. Code 2011–2296), the Contractor agrees:

(i) To furnish to the United States Atomic Energy Commission (hereinafter in this paragraph (j) referred to as "the Commission") through the Contracting Officer complete information regarding such Subject Invention, the Commission to have the sole and conclusive power to determine whether and where a patent application shall be filed, and to determine the disposition of the title to and rights under any such application or any patent that may issue thereon;

(ii) To obtain the execution of and deliver to the Commission all documents relating to each such Subject Invention and to do all things necessary or proper to carry out any determination of the Commission, made under (j) (i) above;

(iii) Unless otherwise authorized in writing by the Commission, to obtain patent agreements from all such employees to effectuate the purposes of this paragraph (j); and

(iv) Unless otherwise authorized in writing by the Commission, to insert this paragraph (j) in all subcontracts.

No claim for pecuniary award or compensation under the provisions of the Atomic Energy Acts of 1946 and 1954 shall be asserted by the Contractor or its employees with respect to any Subject Invention covered by this paragraph.

2. Under amended § 9.110, the Reporting of Royalties clauses shall no longer be inserted in contracts of $50,000 or less. Previously, supply contracts amounting to $10,000 or more were subject to reporting of royalties. Section 9.110, as revised, reads as follows:

§ 9.110 *Reporting of royalties.* The Government has acquired license and other rights under a large number of inventions as the result of Government-sponsored research and development and in other ways. In order that the Government may determine whether the

charging of royalties to the Government is inconsistent with the rights which the Government has acquired or is otherwise improper and in order that negotiation for the voluntary reduction of excessive royalties may be undertaken, the Departments should be informed of royalties charged or to be charged in connection with the performance of Government contracts. The contract clause set forth below shall be included in all contracts in excess of $50,000, except as follows:

(a) The clause shall not be included in contracts coming within the provisions of § 9.110–2.

(b) The clause shall not be included in contracts of $50,000 or less, except that, as a matter of administrative convenience, the clause need not be deleted when it is a part of a standardized form being used for contracts of $50,000 or less, since it is self-deleting as to such contracts.

(c) The clause need not be included in contracts for experimental, developmental, or research work, regardless of the amount of the contract, where under such contracts only a report or reports are to be delivered to or for the Government.

REPORTING OF ROYALTIES

The provisions of this clause shall be applicable only if the amount of the contract is in excess of $50,000.

(a) The Contractor shall report in writing (in quadruplicate) to the Contracting Officer as soon as practicable after execution of this contract whether or not any royalties in excess of $250 have been paid or are to be paid by the Contractor directly to any person or firm in connection with the performance of this contract. If royalties in excess of $250 have been paid or are to be paid to any person or firm, the report shall include the following items of information with respect to such royalties (including the initial $250):

(1) The name and address of each licensor to whom royalties in excess of $250 have been paid or are to be paid,

(2) The patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties,

(3) The manner of computing the royalties consisting of (i) a brief identification of each royalty-bearing unit or process, (ii) the total amount of royalties, and (iii) the percentage rate or dollars and cents amount of royalties on each such unit or process: *Provided*, That if the royalties cannot be computed in terms of units or dollars and cents value, then other data showing the manner in which the Contractor computes the royalties.

(b) In lieu of furnishing a report under paragraph (a), the Contractor may furnish a single, consolidated report for each accounting period of the Contractor during which the Contractor has contracts with the Government, provided the Contractor has requested and obtained the prior written approval of the ----------*. Such consolidated report shall be furnished, when the furnishing thereof has been approved, in the number of copies as approved, as soon as practicable after the close of the accounting period covered by the report. Such consolidated report shall be made in accordance with Contractor's established accounting practice and shall include, for the accounting period, the total amount of royalties accruing to each licensor at a rate in excess of $1,000 per annum on the Contractor's over-all business, together with (i) the name and address of each such licensor, (ii) the patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties, (iii) a brief description of the subject matter of the license under which royalties are charged, (iv) the percentage rate or unit amount, or if the royalties do not accrue by rate or unit amount, such other data showing the manner by which the royalties accrue to licensor, and (v) an estimate or approximation (without detailed accounting) of the portion of such royalties that may be attributable to Government contracts. The Contractor shall, if requested by the Government, furnish at Government expense a more detailed allocation of such royalty payments attributable to Government contracts.

(c) In the event that the Contractor requests written approval to furnish consolidated reports under paragraph (b) above, the ----------* shall promptly consider the request and furnish to the Contractor a letter stating whether or not the request is approved and, notwithstanding any such approval, the Contracting Officer shall have the right to question any such subsequently furnished report as to accuracy or completeness of data and to ask for additional information. The Contractor shall furnish a copy of such letter of approval to the Contracting Officer administering this contract.

(d) After payment of eighty percent (80%) of the amount of this contract, as from time to time amended, further payment shall be withheld until a reserve of either (i) ten percent (10%) of such amount or (ii) $5,000, whichever is less, shall have been set aside, such reserve or the balance thereof to be retained until the Contractor shall have furnished to the Contracting Officer the report called for by paragraph (a) hereof or the copy of the letter approving the Contractor's request to furnish the report under paragraph (b): *Provided*, That no amount shall continue to be withheld from payment for the causes specified in this paragraph (d) if the Contracting Officer shall find that the Contractor has not been furnished a letter as required by paragraph (c) within a reasonable time after making written request to submit a single, consolidated report under the provisions of paragraph (b) of this clause: *And provided further*, That the Contracting Officer may, in his discretion, order payment to be withheld in the amount and manner above provided if the report called for by paragraph (a) is unsatisfactory or if the ----------* notifies the Contracting Officer that the report called for by paragraph (b) is due but has not been received, or if received, is found to be unsatisfactory. No amount shall be withheld under this paragraph when the minimum amount specified by this paragraph is being withheld under other provisions of this contract. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any right accruing to the Government under this contract.

In the foregoing clause, insert, in the space designated by an asterisk (----*), in contracts of the Department of the Army and the Department of the Air Force, the words "Chief, Patents Division, Office of The Judge Advocate General;" and in contracts of the Department of the Navy, the words 'Assistant Chief of Naval Research for Patents."

§ 9.110–1 *Approved form of royalty report.* See § 16.806 of this subchapter for an approved form for optional use by contractors in making reports as required by paragraph (a) of the Reporting of Royalties clause of § 9.110.

§ 9.110–2 *Reporting of royalties in contracts to be performed outside the United States.* In contracts where the work is to be performed outside the United States, its Territories or possessions, regardless of the place of delivery, the following clause shall be included in the contract:

REPORTING OF ROYALTIES

If this contract is in an amount which exceeds $50,000, the Contractor shall report in writing to the Contracting Officer during the performance of this contract the amount of royalties paid or to be paid by the Contractor directly to others in the performance of this contract. The Contractor shall also (i) furnish in writing any additional information relating to such royalties as may be requested by the Contracting Officer and (ii) insert a provision similar to this clause in any subcontract hereunder which involves an amount in excess of the equivalent of ten thousand United States dollars.

3. Section 9.112 *Technical data in research and development contracts* has been deleted from this part.

§ 9.112 [Reserved.]

(Sec. 1, 54 Stat. 712, as amended, sec. 201, 55 Stat. 839, as amended, secs. 2–12, 62 Stat. 21–26, as amended, sec. 638, 66 Stat. 537; 50 U. S. C. App. 1171, 611, 41 U. S. C. 151–161, 162, E. O. 9001, 6 F. R. 6787, as amended by E. O. 9296, 8 F. R. 1429; 3 CFR, 1943 Cum. Supp.)

PART 11—FEDERAL, STATE AND LOCAL TAXES

Subparts A and B of this part have been revised to reflect changes enacted in the Highway Revenue Act of 1956 (P. L. 627—84th Cong.), and P. L. 796—84th Cong., and P. L. 85–12, 85th Cong. In the interest of clarity and accuracy, considerable editorial changes have also been made in these parts. Subparts A and B, as revised, read as follows:

AUTHORITY: §§ 11.000 to 11.206 issued under sec. 1, 54 Stat. 712, as amended, sec. 201, 55 Stat. 839, 62 Stat. 20, sec. 638, 66 Stat. 537; 50 U. S. C. App. 1171, 611, 41 U. S. C. 151–152, E. O. 9001, 6 F. R. 6787, as amended by E. O. 9296, 8 F. R. 1429; 3 CFR, 1943 Cum. Supp.

§ 11.000 *Scope of part.* This part deals with Federal taxes imposed by the Internal Revenue Code upon certain supplies and services procured by any Department; exemptions from such Federal taxes; policy for obtaining exemption from State and local taxes; and contract clauses required or authorized for insertion in contracts. Except as otherwise indicated references are to the Internal Revenue Code of 1954 (26 U. S. C.). References to the Internal Revenue Code of 1939 are for convenience in disposing of cases to which the Internal Revenue Code of 1954 is not applicable.

SUBPART A—FEDERAL EXCISE TAXES

§ 11.100 *Scope of subpart.* This subpart deals with Federal excise taxes (retailers' excises, manufacturers' excises, and the excises on facilities and services) imposed by the Internal Revenue Code upon certain supplies and services procured by any Department. Each tax will be outlined as to (a) its scope and the basis of its applicability, (b) the supplies or services subject to it, and (c) its rate. See § 11.105 for an alphabetical list of the supplies and services subject to these Federal excise taxes, with applicable sections of the Internal Revenue Code of 1954, Treasury Regulations, and cross-references to the Internal Revenue Code of 1939. The availability of exemptions from these taxes is covered in subpart B of this part. Attention is directed to the fact that the scope and rates of these taxes, as set forth in this subpart, are subject to change from time to time by amendments to the Internal Revenue Code and Treasury Regulations.

§ 11.101 *Retailer's excise taxes.* Chapter 31 of the Internal Revenue Code (which supersedes Chs. 9A, 19 and 20, I. R. C. 1939), as implemented by Treasury Regulations 51 and 119, imposes retailers' excise taxes upon various types of supplies, enumerated in this section, sold at retail. The tax is not imposed on sales for resale. The sale of taxable supplies to the Government for use or consumption is a taxable retail sale. In general, the tax attaches at the time title passes from the seller and is based on the sale price. A lease of supplies is treated as a sale for the purpose of these taxes, in which event the tax is measured by the rental payments. The sale (or rental) price:

(a) Excludes the retailers excise tax itself, whether or not separately stated;

(b) Excludes, if separately stated, any retail sales tax imposed by any State, Territory, or political subdivision thereof, or the District of Columbia, irrespective of whether liability for such tax is imposed on the vendor or vendee;

(c) Includes any charges for packaging or packaging materials; and

(d) Excludes all other service charges such as for transportation, delivery, insurance, and installation.

If after the tax has been paid, the sale price is adjusted for any reason, such as by discount, rebate, allowance, or return of containers, the amount of the tax applicable to such sale price also shall be adjusted by credit or refund. The retailer, in turn, is entitled to a refund or credit from the Internal Revenue Service for such tax adjustment.

§ 11.101–1 *Jewelry and related items.* A tax of 10 percent of the sale price is imposed upon the following supplies sold at retail: all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof; articles made of, ornamented, mounted, or fitted with precious metals or imitations thereof; watches, clocks, cases and movements for watches and clocks, which includes all time measureing devices except watches designed especially for use by the blind; gold, gold-plated, silver, or sterling flatware or hollow ware and silver-plated hollow ware (which excludes silver-plated flatware); opera glasses; lorgnettes; and marine glasses, field glasses, binoculars and similar instruments, except those which, because of their size or weight, are ordinarily mounted on tripods or other bases. The tax does not apply to any articles used for religious purposes; to surgical and dental instruments; to frames or mountings for eyeglasses; to fountain pens, mechanical pencils, or smokers' pipes if the only parts of such articles which consist of precious metals are essential parts not used for ornamentation, or to buttons, insignia, and any other devices prescribed for use with the uniforms of the Armed Forces. If the manufacturer's excise tax has been imposed on a pen, mechanical pencil, or cigarette lighter, which is further processed so as to make it subject to the retailer's excise tax on jewelry, the retailer, in computing the retailers' excise tax due on the sale is entitled to a credit or refund in the amount of the manufacturers' excise tax paid on the article.

§ 11.101–2 *Furs.* A tax of 10 percent of the sales price is imposed upon the following supplies sold at retail: articles made of fur on the hide or pelt, and articles of which such fur is the component of chief value—that is, its value is more than three times that of the next most valuable component. The tax is not imposed upon the sale of raw fur. If fur on the hide or pelt is supplied to a dresser or dyer of fur skins or a manufacturer or repairer of fur articles, who produces a taxable article for the use of the supplier of the fur, the transaction is deemed to be a sale at retail and is subject to the tax.

§ 11.101–3 *Toilet preparations.* A tax of 10 precent of the sales price is imposed upon the following supplies sold at retail: perfume, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous, toilet powders, and any other similar substance, article, or preparation by whatsoever name known which are used or applied, or intended to be used or applied for toilet purposes, but not including any article intended to be used or applied only in the care of babies.

§ 11.101–4 *Luggage and handbags.* A tax of 10 percent of the sales price is imposed upon the following supplies (including fittings or accessories sold therewith) sold at retail: trunks; valises, traveling bags; suitcases; satchels; overnight bags; hat boxes for use by travelers; beach and bathing suit bags; brief cases made of leather or imitation leather; salesmen's sample and display cases; purses, handbangs, pocketbooks; wallets; billfolds; card, pass, and key cases; toilet cases; and any other cases, bags, and kits, without regard to size, shape, construction, or material, for use in carrying toilet articles or wearing apparel.

§ 11.101–5 *Special fuels.* (a) Diesel fuel: A tax at the indicated rates is imposed upon diesel fuel, other than that taxable as gasoline under section 4081 of the Internal Revenue Code (see §11.102–3), which is (1) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, for use as a fuel in such vehicle, or (2) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid pursuant to subparagraph (1) of this paragraph, as follows:

(i) At 3 cents per gallon, if sold for use or if used as fuel in a diesel-powered highway vehicle—

(*a*) Which, at the time of such sale or use, is registered, or is required to be registered, for highway use under the laws of any State or foreign country; or

(*b*) Which, if owned by the United States, is used on the highway; or

(ii) At 2 cents per gallon, if sold for use or if used as fuel in a diesel-powered highway vehicle—

(*a*) Which, at the time of such sale or use, is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country; or

(*b*) Which, if owned by the United States, is not used on the highway; and

(iii) At an additional 1 cent per gallon, if fuel on which a tax of 2 cents was paid pursuant to subdivision (ii) of this subparagraph, is used as fuel in a diesel-powered highway vehicle—

(*a*) Which, at the time of such use, is registered, or is required to be registered, for highway use under the laws of any State or foreign country; or

(*b*) Which, if owned by the United States, is used on the highway.

No tax is imposed on diesel fuel sold for use or used as fuel in a nonhighway vehicle, such as certain military vehicles, construction equipment, and equipment

designed for use at mines, factories, railroad stations, and farms.

(b) Special motor fuels: A tax at the indicated rates is imposed upon benzol, benzene, naphtha, liquefied petroleum gas, or any other liquid (other than kerosene, gas oil, fuel oil, or a product taxable as diesel fuel under (a) above, or as gasoline under section 4081 of the Internal Revenue Code (see § 11.102–3)), which is (1) sold by any person to an owner, lessee, or other operator of a motor vehicle, motorboat, or airplane for use as a fuel for the propulsion thereof, or (2) used by any person as a fuel for the propulsion of a motor vehicle, motorboat, or airplane, unless there was a taxable sale of such liquid pursuant to subparagraph (1) of this paragraph, as follows:

(i) At 3 cents per gallon, if such liquid is sold for use or is used as a fuel for a highway vehicle—

(*a*) Which, at the time of such sale or use, is registered, or is required to be registered, for highway use under the laws of any State or foreign country; or

(*b*) Which, if owned by the United States, is used on the highway; or

(ii) At 2 cents per gallon, if such liquid is sold for use or is used as a fuel for the propulsion of a motorboat or airplane, or a motor vehicle—

(*a*) Which, at the time of such sale or use, is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country; or

(*b*) Which, if owned by the United States, is not used on the highway; and

(iii) At an additional 1 cent per gallon, if a liquid on which a tax of 2 cents was paid pursuant to subdivision (ii) of this subparagraph, is used as fuel in a highway vehicle—

(*a*) Which, at the time of such use, is registered, or required to be registered, for highway use under the laws of any State or foreign country; or

(*b*) Which, if owned by the United States, is used on the highway.

(c) A retailer, who has paid a tax on diesel fuel or special motor fuel, is entitled to a refund or credit of the tax paid, if such retailer has not included the tax in the sales price or otherwise collected the tax from the purchaser, has repaid the tax to the purchaser, or has the purchaser's written consent to take the refund or credit, as follows:

(1) A refund or credit of 3 cents or 2 cents per gallon, as appropriate, if a liquid upon which a tax of either 3 cents or 2 cents per gallon has been paid, is not used as fuel in a diesel-powered highway vehicle or to propel a motor vehicle, motorboat, or airplane;

(2) A refund or credit of 1 cent per gallon, if diesel fuel, upon which a tax of 3 cents per gallon has been paid pursuant to paragraph (a) (2) (i) of this section, is used as a fuel for a diesel-powered highway vehicle—

(i) Which, at the time of such use is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country; or

(ii) Which, if owned by the United States, is not used on the highway; or

(3) A refund of 1 cent per gallon, if special motor fuel, upon which a tax of 3 cents per gallon has been paid pursuant to paragraph (b) (2) (i) of this section, is used to propel a motorboat or airplane, or motor vehicle—

(i) Which, at the time of such use is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country; or

(ii) Which, if owned by the United States, is not used on the highway.

These refunds or credits shall be utilized, in accordance with Departmental procedures, by adjustment of the contract price whenever it is economically advantageous to do so.

(d) If the manufacturers' excise tax on gasoline (see § 11.102–3) has been paid on any material used in the production of a special motor fuel taxable under paragraph (b) of this section, the manufacturer of the gasoline is entitled to a refund or credit of such tax, subject to the conditions similar to those stated in the opening lines of paragraph (c) of this section. The contract price for special motor fuels purchased by any Department shall not include an amount for manufacturers' excise tax on gasoline used in the production of such special motor fuel.

§ 11.102 *Manufacturers' excise taxes.* Chapter 32 of the Internal Revenue Code (which supersedes Ch. 29, I. R. C. 1939) as implemented by Treasury Regulations 44 and 46, imposes manufacturers' excise taxes upon various types of supplies, enumerated in this section, sold by a manufacturer, producer, or importer. In general, the tax attaches at the time title passes from the manufacturer and is based on the sale price. A lease of supplies is treated as a sale for the purpose of these taxes, in which event the tax is measured by the rental payments even though such payments exceed the price or fair value of the supply (with the exception of a special rule which applies to the rental of trailers suitable for use with passenger automobiles, permitted by section 4216 (d), I. R. C.). The sale (or rental) price excludes the tax itself and all service charges connected with the sale, such as transportation, delivery, insurance, or installation charges, except charges for packaging and packaging materials, which are included. If after the tax has been paid, the sale price is adjusted for any reason, such as by discount, rebate, allowance, or return of containers, the amount of the tax applicable to such sale price also should be adjusted. The manufacturer, in turn, is entitled to a refund or credit from the Internal Revenue Service for such tax adjustment. Supplies subject to the retailers' excise tax on jewelry (see § 11.101–1) are not subject to manufacturers' excise taxes.

§ 11.102–1 *Motor vehicles.* (a) A tax at the indicated rates is imposed upon the following supplies (including parts and accessories sold therewith) sold by a manufacturer, producer, or importer:

(1) Chassis and bodies of trucks, buses, truck and bus trailers and semitrailers, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer—10 percent; except that this tax does not apply to equipment designed for off-the-road use, such as certain military vehicles, construction equipment, and equipment designed for use at mines, factories, railroad stations, and farms;

(2) Chassis and bodies of automobiles, and trailers and semitrailers (other than house trailers) suitable for use with passenger automobiles—10 percent through June 30, 1958, and 7 percent thereafter; and

(3) Parts or accessories—8 percent through June 30, 1958, and 5 percent thereafter. Parts or accessories are defined to include any article—

(i) The primary use of which is to improve, repair, replace, or serve as a component part of a motor vehicle;

(ii) Designed to be attached to or used in connection with a motor vehicle or to add to its utility or ornamentation; or

(iii) The primary use of which is in connection with a motor vehicle whether or not essential to its operation or use.

Spark plugs, storage batteries, leaf springs, coils, timers, and tire chains, which are suitable for use on or in connection with, or as component parts of, a taxable motor vehicle are treated as parts or accessories whether or not primarily adapted for such use. The tax on parts or accessories does not apply to any article sold for use (or for a single resale for use) as material in the manufacture of, or as a component part of, any article, whether or not such article is subject to a manufacturers' excise tax. If, after August 31, 1955, a manufacturer uses a tax-paid part or accessory as material in the manufacture of, or as a component part of, any article, such manufacturer is entitled to a credit or refund of the tax paid on the part or accessory. The contract price of supplies purchased by any Department shall not include an amount for the manufacturers' excise tax on automotive parts or accessories purchased for use, or after August 31, 1955, used, in the manufacture of any article.

(b) The tax on automotive parts or accessories does not apply to tires, inner tubes, and automobile radio and television receivers. If a manufacturer of motor vehicles sells these articles in connection with the sale of a taxable motor vehicle, he may take a credit against the motor vehicle tax in the amount of the motor vehicle tax rate applied to his purchase price of the tires, inner tubes, and automobile radio and television receivers. The contract price for supplies purchased by any Department shall not include an amount for the manufacturers excise tax on motor vehicles and automotive parts or accessories to the extent that these credits are available to the manufacturer.

§ 11.102–2 *Tires and tubes.* (a) A tax at the indicated rates is imposed on the following supplies, made wholly or in part of rubber, including synthetic and substitute rubber, sold by a manufacturer, producer, or importer:

(1) Tires of the type used on highway vehicles, which includes motor vehicles which are highway vehicles, and vehicles of the type used with motor vehicles which are highway vehicles—8 cents per pound;

(2) Other tires, which include pneumatic and solid tires, casings, hoops, strips, and bands of all kinds which are designed to fit the wheel of any type of vehicle that is capable of transporting a person or burden—5 cents per pound;

(3) Inner tubes, which include any type of air container for pneumatic tires—9 cents per pound on total weight, including air valves and stems; and

(4) Tread rubber, which includes any material commonly or commercially known as tread rubber or camelback of a type used in retreading or recapping tires—3 cents per pound. An exemption exists for the sale of tread rubber or camelback by a manufacturer to a purchaser for use by that purchaser other than for recapping or retreading tires of the type used on highway vehicles. In addition, if tread rubber, upon which the tax has been paid, is sold for use or is used other than for recapping or retreading tires of the type used on highway vehicles, the manufacturer is entitled to a refund or credit of the tax, provided that the credit under (b) below is not available. The contract price for supplies purchased by any Department will not include an amount for the manufacturers' excise tax on tread rubber to the extent that this exemption or refund or credit is available to the manufacturer.

In determining weight of taxable tires under subparagraphs (1) and (2) of this paragraph, metal rims or rim bases are excluded, but any other material or fastening device that forms a part of the tire is included. The tax imposed under subparagraphs (1) and (2) of this paragraph, does not apply to tires which are more than 20 inches in diameter, and not more than 1¾ inches in cross-section, if such tires are of all-rubber construction with fabric or metal reinforcement, nor does it apply to tires of extruded tiring with an internal wire fastening agent.

(b) The exemption for sales for further manufacture does not apply to taxable tires and tubes (see § 11.203). However, if tax-paid tires and tubes are sold in connection with the sale by a manufacturer of a taxable motor vehicle, a credit against the tax on the motor vehicle is allowed to the extent of the motor vehicle tax rate applied to the manufacturers' purchase price on the tires and tubes (see § 11.102–1 (b)).

§ 11.102–3 *Gasoline.* (a) A tax of 3 cents per gallon is imposed on gasoline sold by a producer or importer. Gasoline means all products commonly or commercially known as gasoline, including casinghead and natural gasoline, but excluding kerosene, gas oil, or fuel oil, and also excluding any product taxable as a special motor fuel under section 4041 of the Internal Revenue Code (see § 11.101–5). The tax does not apply to the sale of gasoline to a producer, which is defined to include a refiner, compounder, blender, or dealer who sells gasoline exclusively to producers of gasoline.

(b) The ultimate purchaser of gasoline is entitled to a refund of 1 cent per gallon for gasoline not used as fuel in a highway vehicle:

(1) Which, at the time of such use is registered, or is required to be registered, for highway use under the laws of any State or foreign country; or

(2) Which, if owned by the United States, is used on the highway. In accordance with Departmental procedures, necessary data shall be compiled, to the extent economically advantageous, to support a direct application to the Internal Revenue Service for refund. Such application shall be in accord with pertinent requirements of the Internal Revenue Service.

§ 11.102–4 *Lubricating oils.* (a) A tax at the indicated rates is imposed upon the following classes of lubricating oils sold, other than to another manufacturer or producer for resale, by a manufacturer or producer (but not upon oil sold by an importer):

(1) Cutting oils, which means oils sold for use in cutting and machining operations, including forging, drawings, rolling, shearing, punching, and stamping on metals—3 cents per gallon; and

(2) Other lubricating oils, which means all oils, regardless of origin, which are sold as lubricating oil or are suitable for use as a lubricant, not including products commonly known as grease—6 cents per gallon. Certain products, other than those commonly known as grease, are not considered to be lubricating oils, and accordingly are not subject to the tax. These include petrolatum, and fatty oils of vegetable, animal, fish, and marine origin which in their natural state are not sold as lubricating oils.

(b) An exemption is available for lubricating oils sold by a manufacturer directly to a purchaser who uses the oil for nonlubricating purposes. In applying this exemption, oils can be grouped into two classes:

(i) Oils which are exempted if the manufacturer obtains an exemption certificate from the purchaser in the form prescribed by the Treasury Regulations; and

(ii) Oils which are exempted without an exemption certificate. Oils of the second class include crude neatsfoot oil; electrical transformer insulating oil; white oil; and lubricating oils which are packaged in sealed containers of one gallon or less, labeled and sold for nonlubricating purposes.

With the exception of oils which are packaged in sealed containers of one gallon or less, labeled and sold for nonlubricating purposes, oils of neither class may be sold tax-free to dealers for resale even though it is known that the oil will be used for nonlubricating purposes. If, however, oil upon which a tax has been paid is used for nonlubricating purposes, the manufacturer is entitled to a refund or credit, irrespective of whether the oil was sold directly to the consumer by the manufacturer or was sold through a dealer. A refund or credit is also allowed when lubricating oil, upon which the 6 cent per gallon tax has been paid, is used as a cutting oil taxable at 3 cents per gallon. When it is economically advantageous to do so, the exemption or refund or credit for oil sold for use or used for nonlubricating purposes, and the refund or credit for lubricating oil used as cutting oil, shall be utilized in accordance with Departmental procedures by a tax exclusive purchase or by adjustment of the contract price.

§ 11.102–5 *Refrigeration equipment.* A tax at the indicated rates is imposed upon the following supplies (including parts or accessories sold therewith) sold by a manufacturer, producer, or importer:

(a) Household type refrigerators, which include units not exceeding 14 cubic feet net storage space for single or multiple cabinet installations having, or designed for use with, a mechanical refrigerating unit operated by electricity, gas, kerosene, or gasoline; household type units for the quick freezing or frozen storage of foods operated by electricity, gas, kerosene, or gasoline—5 percent;

(b) Refrigerator components, which means cabinets, compressors, condensors, condensing units, evaporators, expansion units, absorbers, and controls for, or suitable for use as parts of or with, taxable household type refrigerators or quick freeze units, except when sold as a component part or accessory with the sale of complete refrigerators, refrigerating or cooling apparatus, or quick freeze units—5 percent. Exemption from the tax is available on the sale of a refrigerator component for use (or for a single resale for use) as material in the manufacture of, or as a component part of, any article, whether or not such article is subject to a manufacturers' excise tax. If, after August 31, 1955, a manufacturer uses a tax-paid refrigerator component in the manufacture of, or as a component part of, any article, such manufacturer is entitled to a credit or refund of the tax paid on the refrigerator component. The contract price of supplies purchased by any Department shall not include an amount for the manufacturers' excise tax on refrigerator components purchased for use, or after August 31, 1955 used, in the manufacture of any article; and

(c) Self-contained air-conditioning units—10 percent.

§ 11.102–6 *Electric, gas, and oil appliances.* A tax of 5 percent is imposed upon the following household supplies (including parts or accessories sold therewith), whether or not used domestically, sold by a manufacturer, producer, or importer: electric, gas, or oil water heaters; electric, gas, and oil appliances of the type used for cooking, warming, or keeping warm food or beverages for consumption on the premises; electric flatirons, air heaters (not including furnaces), immersion heaters, blankets, sheets and spreads, mixers, whippers, and juicers, belt-driven fans, exhaust blowers, door chimes, dehumidifiers, dishwashers, floor polishers and waxers, food choppers and grinders, hedge trimmers, ice cream freezers, mangles, pants pressers, and garbage disposal units; electric and gas clothes driers; and power lawn mowers. The tax is also imposed upon electric direct motor driven fans and air circulators not of the industrial type.

§ 11.102–7 *Electric light bulbs.* A tax of 10 percent is imposed upon electric light bulbs and tubes, not subject to any other manufacturers' excise tax, sold by a manufacturer, producer, or importer.

§ 11.102–8 *Radio and television receiving sets, phonographs and records, musical instruments.* A tax of 10 percent is imposed upon the following supplies (including, except as to musical instruments, parts and accessories sold therewith) sold by a manufacturer, producer, or importer:

(a) Radio and television receiving sets, automobile radio and television receiving sets, phonographs, and combinations of any of the foregoing, if such articles are of the entertainment type. The contract price of any of these supplies, not of the entertainment type, delivered to any Department after August 31, 1955, shall not include any amount for the manufacturers' excise tax, irrespective of the date of the contract, if the contract price is subject to adjustment for changes in the contractor's Federal excise tax burden. The exemption of sales for further manufacture does not apply to automobile radio and television receivers (see § 11.203); however, if tax-paid receivers are sold in connection with the sale by a manufacturer of a taxable motor vehicle, a credit against the tax on the motor vehicle is allowed to the extent of the motor vehicle tax rate applied to the manufacturer's purchase price on the receiver (see § 11.102–1 (b)); and

(b) Radio and television components, which means chassis, cabinets, tubes, speakers, amplifiers, power supply units, antennae of the built-in type, and phonograph mechanisms, which are suitable for use on or in connection with, or as a component part of, any taxable radio and television receiver or phonograph; and phonograph records. The tax on radio and television components and phonograph records applies irrespective of whether or not they are of an entertainment type. Exemption from the tax is available as to components—

(1) Which, prior to September 1, 1955, were sold for use as material in the manufacture of, or as a component of, an article subject to a manufacturers' excise tax; or

(2) Which, after August 31, 1955, are sold for use, or are actually used as material in the manufacture of, or as a component part of, any article, whether or not such article is subject to a manufacturers' excise tax.

A manufacturer using a tax-paid component within the scope of any of these exemptions, is entitled to a refund or credit of the tax paid on such component. This includes the use, after August 31, 1955, of a component in the manufacture of, or as a component part of, a nontaxable article, even though such component was purchased prior to September 1, 1955. The contract price for supplies purchased by any Department shall not include an amount for the manufacturers' excise tax on radio and television components, if any of these exemptions or refunds or credits, are available to the manufacturer.

§ 11.102–9 *Sporting goods.* A tax of 10 percent is imposed upon certain types of sporting equipment (including parts or accessories sold therewith) sold by a manufacturer, producer, or importer.

§ 11.102–10 *Photographic equipment.* A tax at the indicated rates is imposed upon the following supplies (including parts or accessories sold therewith) sold by a manufacturer, producer, or importer:

(a) Cameras, not including X-ray cameras or cameras weighing more than four pounds exclusive of lens and accessories—10 percent.

(b) Camera lenses, not including still camera lenses having a focal length of more than 120 millimeters or motion picture camera lenses having a focal length of more than 30 millimeters—10 percent. Exemption from the tax is available as to camera lenses—

(1) Which, prior to September 1, 1955, were sold for use as material in the manufacture of, or as a component part of, an article subject to a manufacturers' excise tax; or

(2) Which, after August 31, 1955, are sold for use or are actually used as material in the manufacturer of, or as a component part of any article, whether or not such article is subject to a manufacturers' excise tax.

A manufacturer, using a tax-paid camera lens within the scope of any of these exemptions, is entitled to a refund or credit of the tax paid on such lens. This includes the use, after August 31, 1955, of a camera lens in the manufacture of, or as a component part of, a nontaxable article, even though such lens was purchased prior to September 1, 1955. The contract price for supplies purchased by any Department shall not include an amount for the manufacturers' excise tax on camera lenses if any of these exemptions, refunds, or credits are available to the manufacturer;

(c) Unexposed photographic film in rolls, including motion picture film—10 percent. This tax does not apply to X-ray film; unperforated microfilm; film more than 150 feet in length; or film more than 25 feet in length and more than 30 millimeters in width. A person who acquires unexposed film in a form not subject to tax and thereafter sells such unexposed film in form and dimensions subject to tax is treated as a manufacturer of the film so sold by him. The manufacturer of unexposed motion picture films is entitled to a credit or refund (but not an exemption) for film used or resold for use in making newsreel motion picture films covering current news events for immediate release for public exhibition; and

(d) Electric motion or still picture projectors of the household type—5 percent.

§ 11.102–11 *Firearms, shells, and cartridges.* Although a tax is imposed upon pistols and revolvers at the rate of 10 percent and other firearms, shells, and cartridges at the rate of 11 percent, sold by a manufacturer, producer, or importer, it does not attach to the sale or transfer to such articles purchased with funds appropriated for the Military Departments. In addition to this manufacturers' excise tax, Chapter 53A of the Internal Revenue Code (which supersedes Ch. 25, I. R. C. 1939) imposes a transfer tax and a tax on the manufacture of machine guns and certain other firearms, except that transfer to, or manufacture for, the United States is specifically exempted from these taxes.

§ 11.102–12 *Business machines.* A tax of 10 percent is imposed upon a wide variety of business machines (including parts or accessories sold therewith), not including cash registers of the type used in registering over-the-counter retail sales, sold by a manufacturer, producer, or importer.

§ 11.102–13 *Pens, mechanical pencils, and lighters.* A tax of 10 percent is imposed upon fountain and ball point pens, mechanical pencils, and mechanical lighters for cigarettes, cigars, and pipes, sold by a manufacturer, producer, or importer; except that this tax does not apply if the article also is subject to the retailers' excise tax on jewelry imposed by section 4001 of the Internal Revenue Code. If the manufacturers' excise tax had been paid, but the article is further processed so as to subject it to the retailers' excise tax, the retailer (but not the manufacturer who originally paid the tax) is entitled to a credit to the extent of the manufacturers' excise tax paid on the article. (See § 11.101–1.)

§ 11.102–14 *Matches.* A tax of 2 cents per 1,000, not to exceed 10 percent of the price for which sold, is imposed upon matches sold by a manufacturer, producer, or importer, except that the rate is 5½ cents per 1,000 for fancy wooden matches or matches having a stained, dyed, or colored stick or stem, whether packed in boxes or in bulk.

§ 11.103 *Excise taxes on facilities and services.* Chapter 33 of the Internal Revenue Code (which supersedes Ch. 30, I. R. C. 1939), implemented by Treasury Regulations 42 and 113, imposes excise taxes on certain facilities and services, including communications, and transportation of persons, property, and oil by pipeline. In general, the tax is based on the amount paid for the service, and is imposed upon the person paying for the service, except that the tax on the transportation of oil by pipeline is imposed on the person supplying the transportation. As used throughout this paragraph the term "United States," when used in a geographical sense, means the States, the Territories of Alaska and Hawaii, and the District of Columbia, and the term "continental United States" means the existing 48 States and the District of Columbia.

§ 11.103–1 *Communications.* A tax is imposed on amounts paid for the following facilities and services at the rates hereinafter indicated; except that only one payment of tax is required on long distance telephone or telegraph service, notwithstanding that lines or stations of more than one person are used in the transmission:

(a) Local telephone service, which means any telephone service not otherwise taxable, excluding amounts paid for the installation of instruments, wires, poles, switchboards, apparatus, and equipment—10 percent;

(b) Long distance telephone service, which means any telephone or radio

telephone message or conversation for which the toll charge exceeds 24 cents and for which the charge is paid within the United States—10 percent;

(c) Telegraph service, which means a telegraph, cable, or radio dispatch or message for which the charge is paid within the United States—10 percent;

(d) Leased wire, teletypewriter or talking circuit special service, not including any service used exclusively in rendering a service taxable as wire and equipment service under paragraph (e) of this section—10 percent. This tax applies irrespective of whether the wires or services are within a local exchange area; and

(e) Wire and equipment service, which includes stock quotation and information services, burglar or fire alarm services, and all other similar services—8 percent. This tax applies irrespective of whether the wires or services are within a local exchange area.

§ 11.103–2 *Transportation of persons.* (a) A tax of 10 percent is imposed upon amounts paid for the transportation of persons by rail, motor vehicle, water, or air, including charges for seating or sleeping accommodations incident to such transportation, as follows:

(1) On amounts paid within the United States for taxable transportation as defined in paragraph (b) of this section; and

(2) On amounts paid outside the United States for taxable transportation, as defined in paragraph (b) of this section, which both begins and ends in the United States.

(b) Taxable transportation:

(1) Includes transportation which begins in the United States or in Canada or Mexico within 225 miles of the nearest point to continental United States, and ends in the United States or in the aforementioned 225–mile zone;

(2) Includes transportation that begins in the United States or in the 225–mile zone and ends outside such area, transportation that begins outside the United States or the 225–mile zone and ends inside such area, and transportation that begins and ends outside the United States and the 225-mile zone, but only to the extent that such transportation is directly or indirectly from one port or station in the United States to another port or station in the United States. (Even though it is "taxable transportation" it may not be subject to tax if the payment is made outside the United States, according to the limitation set forth in paragraph (a) (2) of this section); and

(3) Irrespective of subparagraphs (1) and (2) of this paragraph, does not include any portion of transportation which—

(i) Is outside the United States;

(ii) Is not, directly or indirectly, from the border of continental United States or a port or station in the 225–mile zone to a port or station in the 225–mile zone;

(iii) Begins either where the route of transportation leaves the United States or a port or station in the 225–mile zone, and ends either where the route enters the United States or a port or station in the 225-mile zone; and

(iv) Passes through a point in excess of 225 miles from the United States on an imaginary direct line between the beginning and ending points specified in subdivision (iii) of this subparagraph.

(c) In determining taxable transportation, a round trip is considered to consist of transportation from the point of origin to the destination, and a separate transportation thereafter.

(d) The tax does not apply to—

(1) Any separable and itemized charges other than those for transportation of a person, such as for an automobile, baggage, meals, hotel accommodations, insurance, and the like;

(2) Charges incident to the charter of a conveyance for the transportation of persons, such as for parking, icing, sanitation, layover, movement of equipment in deadhead service, dockage, and the like; or

(3) Charges for transportation by motor vehicles having a seating capacity of less than 10 persons and not operated on an established line.

§ 11.103–3 *Transportation of property.* (a) (1) A tax of 3 percent (4 cents per short ton on coal, including lignite, coal dust, coke briquettes) is imposed upon amounts paid to a person engaged in the business of transporting property for hire by rail, motor vehicle, water, or air.

(2) The tax applies to—

(i) Amounts paid within or without the United States for transportation from one point in the United States to another; and

(ii) Amounts paid within the United States for that portion within the United States of transportation from a point outside to a point within the United States.

(b) The tax does not apply to the transportation of property in the course of exportation or shipment to a possession of the United States (see § 11.201), nor to an uninterrupted shipment moving through the United States from a possession or a foreign point to a possession or a foreign point. If any such shipment is interrupted in the United States for any purpose of the shipper rather than a fault of transportation, it is treated as two shipments, one to and the other from the point of interruption, of which the former may be taxable in whole or in part according to the rules stated above.

(c) The transportation tax does not apply to a shipment under a commercial bill of lading consigned to an officer of a Military Department at a port of exportation, provided that the tax is expressly excluded from the contract or subcontract price and the prescribed exemption certificate is filed with the carrier. This relief from the transportation tax shall be utilized, in accordance with Departmental procedures, whenever it is economically advantageous to do so.

(d) For the taxability of shipments under a Government bill of lading, whether or not exported, see § 11.202 (c).

(e) The amount subject to tax includes—

(1) any charges for services incident to the transportation movement, such as loading, unloading, blocking, staking, elevation, transfer in transit, ventilation, refrigeration, icing, storage, demurrage, lighterage, trimming of cargo in vessels, wharfage, and handling, feeding, and watering of livestock; and

(2) separate and itemized charges for baggage transported in connection with the transportation of persons, including incidental charges for excess weight or value, storage, transfer, special delivery, and the like.

The tax applies to all forms of transportation, local or otherwise, including drayage, towing, ferrying, and switching; however, it does not apply to the transportation of earth, rock, or other material excavated within the boundaries of, and in the course of, a construction project and transported to any place within, or adjacent to, the boundaries of such project, nor does it apply to the transportation of coal from the mine to a preparation plant. No amount paid for the transportation of property is subject to tax if and to the extent that a tax on such transportation previously has been paid. An amount paid for the transportation of coal, coke, or briquettes is not taxable if there has been a previous taxable transportation of the coal or coal dust from which the coke or briquettes were made.

§ 11.103–4 *Transportation of oil by pipeline.* A tax of 4½ percent is imposed upon the amount paid for the transportation by pipeline of crude petroleum and liquid products thereof. In contrast with the other excise taxes on facilities and services, the legal incidence of this tax is upon the person furnishing such transportation. If no charge is made for the transportation, or if the charge made is less than a fair charge (unless such charge results from an arm's length transaction), the tax is based on the fair charge for such transportation.

§ 11.104 *Use tax on highway motor vehicles.* (a) A tax of $1.50 a year for each 1,000 pounds of taxable gross weight or fraction thereof is imposed upon the use, after June 30, 1956, of any highway motor vehicle which, together with semitrailers and trailers customarily used in connection with a vehicle of this type, has a taxable gross weight in excess of 26,000 pounds. The full tax is due for any vehicle which is used on the public highways of continental United States, Alaska, or Hawaii at any time during the month of July, irrespective whether the vehicle is later removed from highway use. If the first use of a taxable vehicle occurs after the end of July, the tax is computed proportionately from the first day of the month in which the vehicle is first used, through the end of the following June. For example, if a vehicle is placed in use during August, 11/12 of the total tax is payable. No tax applies to vehicles, even though of a highway type, which are never used on the public highways during the taxable year.

(b) Taxable gross weight is the sum of—

(1) The actual unloaded weight of the vehicle and any semitrailers and trailers customarily used with such a vehicle, all units fully equipped for service; and

(2) The weight of the maximum load customarily carried by all units of a vehicle of this type.

(c) The tax is payable by the person in whose name the vehicle is, or is required to be, registered under the law of any State, or if owned by the United States, by the agency or instrumentality of the United States operating such vehicle. If a tax has been paid for a particular vehicle, no further liability can be incurred in the same taxable year, even though there is a change of ownership of the vehicle.

§ 11.105 *Selective list of supplies and services subject to Federal excise taxes.*

Supplies and services	I. R. C. 1954 (26 U. S. Code)	I. R. C., 1939	Treasury regulation and section
	Section	*Section*	
Air conditioning equipment	4111	3405 (c)	46 11.102-5
Appliances, electric, gas, and oil	4121	3406 (a) (3)	46 11.102-6
Automotive accessories	4061 (b)	3403 (c)	46 11.102-1
Binoculars, field and marine glasses	4001	2400	51 11.101-1
Business machines	4191	3406 (a) (6)	46 11.102-12
Cigarette lighters	4201	3408	46 11.102-13
Communications services and facilities	4251	3465	42 11.103-1
Cutting oils	4091	3413	44 11.102-4
Diesel fuel	4041 (a)	2450 (a)	119 11.101-5
Electric light bulbs	4131	3406 (a) (10)	46 11.102-7
Film	4171	3406 (a) (4)	46 11.102-10
Firearms, shells, and cartridges	4181	3407, 2700	46, 47 11.102-11
Furs	4011	2401	51 11.101-2
Gasoline	4081	3412	44 11.102-3
Handbags	4031	1651 (a)	51 11.101-4
Highway vehicles, use of	4481		11.104
Jewelry and related items	4001	2400	51 11.101-1
Lubricating oils	4091	3413	44 11.102-4
Luggage and handbags	4031	1651 (a)	51 11.101-4
Motor vehicles and accessories	4061	3403	46 11.102-1
Musical instruments	4151	3404 (d)	46 11.102-8
Pens, mechanical pencils, and lighters	4201	3408	46 11.102-13
Phonographs and records	4141	3404	46 11.102-8
Photographic equipment	4171	3406 (a) (4)	46 11.102-10
Pistols and revolvers	4181	2700	46, 47 11.102-11
Radio and television receiving sets, parts and components	4141	3404	46 11.102-8
Refrigeration equipment	4111	3405	46 11.102-5
Shells and cartridges	4181	3407	46 11.102-11
Special fuels	4041	2450	119 11.101-5
Sporting goods	4161	3406 (a) (4)	46 11.102-9
Telephone and telegraph services	4251	3465	42 11.103-1
Tires and tubes	4071	3400	46 11.102-2
Toilet preparations	4021	2402 (a)	51 11.101-3
Transportation of oil by pipeline	4281	3460	42 11.103-4
Transportation of persons	4261	3469	42 11.103-2
Transportation of property	4271	3475	113 11.103-3
Watches, clocks, and other timepieces	4001	2400	51 11.101-1

SUBPART B—EXEMPTIONS FROM FEDERAL EXCISE TAXES

§ 11.200 *Scope of subpart.* This subpart sets forth the applicability and scope of general exemptions, credits, and refunds from the Federal excise taxes outlined in subpart A of this part, and the policy governing when such exemption, credits, and refunds are to be claimed. Particular exemptions restricted to a single tax are set forth in subpart A of this part in the discussion of each tax.

§ 11.201 *Supplies for exportation or shipment to a possession.* Exemption is available from the retailers' and manufacturers' excise taxes on the sale of supplies for export or for shipment to a possession of the United States, which excludes the Territories of Alaska and Hawaii, but includes the Commonwealth of Peurto Rico, Panama Canal Zone, Virgin Islands, Guam, American Samoa, Wake Island, and Midway Islands. It is to be noted that the transportation tax on property is not applicable to shipments for export or to a possession of the United States. See § 11.103–3.

§ 11.201–1 *Retailers' excise taxes.* Pursuant to section 4056 of the Internal Revenue Code (which supersedes sec. 2406, I. R. C. 1939) and applicable Treasury Regulations, exemption is available from the retailers' excise taxes on sales of supplies for export or for shipment to a possession of the United States. This exemption shall be utilized, in accordance with Departmental procedures, by purchasing on a tax-exclusive basis and furnishing the required proof of exportation or shipment to a possession, if—

(a) The purchase is substantial; and

(b) Exportation or shipment to a possession is intended to follow not more than 6 months after title passes to the Government.

§ 11.201–2 *Manufacturers' excise taxes.* Pursuant to section 4225 of the Internal Revenue Code (which supersedes secs. 3449 and 2705, I. R. C. 1939) and applicable Treasury Regulations, exemption is available from the manufacturers' excise taxes on sales of supplies for export or for shipment to a possession of the United States. This exemption shall be obtained only when—

(a) The purchase is substantial; and

(b) Exportation or shipment to a possession is intended to follow not more than 6 months after title passes to the Government.

This exemption is limited to sales by a manufacturer, and is not applicable to sales for export or shipment to a possession from the stock of a dealer who was not the manufacturer, producer, or importer.

§ 11.202 *Supplies and services for the exclusive use of the United States.* By virtue of action taken by the Secretary of the Treasury, pursuant to section 4293 of the Internal Revenue Code, exemption is available, and shall be obtained from the following Federal excise taxes to the extent indicated:

(a) Tax on communication services and facilities (see § 11.103–1) furnished directly to the United States (as distinguished from being furnished to a Government contractor) and paid for directly by the Government, which exemption is obtained without any exemption certificate;

(b) Tax on transportation of persons (see § 11.103–2) for transportation furnished the United States upon a Government transportation request, which exemption is obtainable by use of such transportation request; and

(c) Tax on transportation of property (see § 11.103–3) for transportation to or from the Government on a Government bill of lading, which exemption is obtainable by use of such bill of lading. This exemption applies to shipments on commercial bills of lading which are converted to Government bills of lading at destination.

§ 11.203 *Supplies sold for further manufacture.* (a) Pursuant to section 4220 of the Internal Revenue Code (which supersedes sec. 3442, I. R. C. 1939) and applicable Treasury Regulations, supplies (other than tires, inner tubes, and automobile radios and television receivers) are exempt from manufacturers' excise taxes if sold for use by the vendee in the manufacture of, or as a component part of, another article; or for resale by the vendee for such further manufacture by his vendee, if the article is resold in due course. In applying this exemption, there are two classes of supplies:

(1) Automobile parts or accessories, refrigerator components, radio or television components, and camera lenses, the sale of which is exempt irrespective of whether or not the article to be manufactured is subject to a manufacturers' excise tax. The manufacturer is entitled to a credit or refund for the amount of the tax paid on such parts, accessories, components, or lenses if this exemption has not been utilized and if such parts, accessories, components, or lenses upon which a manufacturers' excise tax has been paid, are used in the manufacture of, or as a component part of, any article (whether or not taxable); and

(2) All other articles (other than tires, inner tubes, automobile radio and television receivers) subject to a manufacturers' excise tax, the sale of which is exempt only if the article to be manufactured is subject to a manufacturers' excise tax. The manufacturer is entitled to a credit or refund of the amount of tax paid on any such article used for further manufacture if this exemption has not been utilized and if such article, upon which a manufacturers' excise tax has been paid, is used in the manufacture of, or as a component of, another article upon which a manufacturers' excise tax is subsequently paid, or which subsequently is sold tax-free as a sale for further manufacture pursuant to section 4220 of the Internal Revenue Code.

(b) These exemptions, credits, and refunds under paragraph (a) (1) and (2) of this section are obtainable by the

manufacturer without any action by the contracting officer.

The contract price for supplies purchased by any Department shall not include an amount for any manufacturers' excise tax from which these exemptions, credits, or refunds are available.

§ 11.204 *Supplies for vessels and airplanes.* Pursuant to section 4222 of the Internal Revenue Code (which supersedes secs. 3451 and 2456, I. R. C. 1939) and applicable Treasury Regulations, exemption is available from the manufacturers' excise taxes, and from the retailers' excise tax on special motor fuels imposed by section 4041 (b) of the Internal Revenue Code (see § 11.101–5) on sales of supplies for use as sea stores, fuel supplies, ships' stores, or legitimate equipment necessary for the navigation, propulsion, and upkeep of vessels of war or military aircraft, including guided missiles and pilotless aircraft, owned or chartered by the United States. If supplies upon which a tax has been paid are sold for any of the exempt uses enumerated above, the manufacturer is entitled to a credit or refund of the tax paid, irrespective of whether the supplies are sold directly to the consumer by the manufacturer or are sold through a dealer. When it is economically advantageous to do so, this exemption, credit, or refund shall be utilized, by purchase on a tax-exclusive basis and execution of the required exemption certificate, in accordance with Departmental procedures.

§ 11.205 *Exemptions from other Federal taxes.* Any Department that purchases supplies or services subject to a Federal excise tax, other than those specified in Chapters 31, 32, 33B, 33C, and 36D of the Internal Revenue Code which are outlined in Subpart A of this part, shall prescribe rules to govern the utilization of any exemptions from such tax.

§ 11.206 *Tax exemption forms.* Standard Government exemption forms acceptable to the Internal Revenue Service shall be used in accordance with Departmental procedures (see § 16.804 of this subchapter).

PART 12—LABOR

SUBPART H—NONDISCRIMINATION IN EMPLOYMENT

Section 12.804 has been revised, to implement a memorandum to the Materiel Secretaries of the Military Departments from the Assistant Secretary of Defense (Supply and Logistics) dated February 5, 1957, subject, Exemption of Contracts from the "Nondiscrimination in Employment" clause, by providing that the final discussion with the contractor, prior to submission of a request for exemption, may be had between the Secretary of a Department, or his designee and the president of the Company. Section 12.804, as revised, reads as follows:

§ 12.804 *Special requirements or emergencies.* Where special requirements or emergencies are such that use of the clause set forth in § 12.802 in a contract or subcontract is impracticable, the contracting officer may request authority to omit or modify the clause. Such requests shall be submitted in accordance with Departmental procedures, together with all pertinent facts, to the Assistant Secretary of Defense (Supply and Logistics), for coordination with the President's Committee on Government Contracts. Prior to the submission of requests for exemption, the Secretary or a designee for the purpose, will in appropriate cases personally discuss with the president of the company concerned the inclusion of the clause in the pending contract.

(R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21, sec. 638, 66 Stat. 537; 41 U. S. C. 151–162)

PART 13—GOVERNMENT PROPERTY

SUBPART D—INDUSTRIAL FACILITIES

Amendments to § 13.407 (a) provide that (1) facilities contracts shall no longer authorize the use of industrial facilities without charge to perform contracts entered into by formal advertising and (2) the use of such facilities without charge by subcontractors is now subject to the same considerations as proposed use by a prime contractor, namely, that the subcontractor shall not thereby be placed in a favored competitive position and that adequate consideration is received by the Government. Section 13.407 (a) as revised, reads as follows:

§ 13.407 *Right of contractor to use.* (a) (1) Each facilities contract shall limit the right of the contractor to use the industrial facilities to the performance of the contracts and subcontracts specified or otherwise identified in the facilities contract or added thereto by amendment. Facilities contracts shall not authorize the use of industrial facilities without charge to perform contracts entered into by formal advertising. Facilities contracts may authorize the use of industrial facilities without charge to perform work under contracts other than those entered into by formal advertising if—

(i) The user is not thereby placed in a favored competitive position; and

(ii) The Government receives adequate consideration through reduced cost for the supplies or services or otherwise. Such reduced cost may be established in the initial negotiation of new contracts, or by the readjustment of prices (including fixed-fees and allowable costs) of existing contracts, or by price redetermination in the case of negotiated fixed-price contracts where the saving to the contractor cannot be accurately forecast.

(2) Where a facilities contract authorizes the use of industrial facilities without charge to perform subcontracts, it is likewise important to assure that the waiver of a use charge is consistent with the requirements that (i) the subcontractor is not thereby placed in a favored competitive position and (ii) the Government receives adequate consideration through reduced cost for the supplies or services or otherwise; therefore, the use of industrial facilities without charge to perform a particular subcontract shall not be authorized unless the contracting officer determines, in accordance with Departmental procedures, that these requirements are met.

(3) When use without charge to the contractor is not authorized by this paragraph or is not advisable because of the competitive aspect, administrative difficulties, or other considerations, the contract shall require the contractor to pay a fair and reasonable use charge. Such fair and reasonable use charge shall be established on the basis of sound commercial practice, including any prevailing commercial rates, and shall be such as to prevent the contractor from obtaining an unfair competitive advantage by reason thereof. The use charge for metal-working equipment and for other personal property and equipment constituting industrial facilities shall conform to the rates prescribed in § 13.601–2 (i) and (ii) except that the charge may be negotiated without regard to said prescribed rates, to the extent provided in § 13.601–3. Unless determined by the contracting officer to be impracticable or contrary to the best interest of the Government, the use charge shall be made on the basis of the time during which the property is available for the contractor's use, rather than on the basis of the time during which the property is actually used.

SUBPART F—USE OF GOVERNMENT-OWNED INDUSTRIAL FACILITIES ON WORK OTHER THAN FOR A MILITARY DEPARTMENT

An amendment to § 13.601–2, in connection with the minimum rent to be paid for the use of Government-owned facilities on work other than for a military department, provides that cost of acquisition (used as a basis) shall include, generally, costs of transportation to and installation of the equipment at the place where the machine will be used. Section 13.601–2, as revised, reads as follows:

§ 13.601–2 *Minimum rent.* (a) Except as provided in § 13.601–3, rental charged under § 13.601 for personal property and equipment constituting industrial facilities shall conform to the following rates, which rates have been determined to be fair and reasonable:

(1) As to metalworking equipment of the types referred to in paragraph 401.2 of Appendix B of this subchapter, or paragraph 307.2 of Appendix C of this subchapter, a rent equivalent to that computed as follows shall be charged regardless of the extent and value of any obligations undertaken by the user to provide maintenance or other services:

Year of purchase of tool or equipment	*Rate*
1950 and subsequent	2.0% per month of the tool acquisition cost.
1942 through 1949	1.5% per month of the tool acquisition cost.
Prior to 1942	1.0% per month of the tool acquisition cost.

The tool acquisition cost to be used in the above formula for determining rental rates shall be the price of the machine charged the Government when the machine was purchased plus costs, borne by the Government, of transportation to and costs of installation in the place where the machine will be used under the

contract or agreement, if such costs are borne by the Government, regardless of whether such costs are incurred before or after the contract or agreement is executed. Since the acquisition cost must be stated in the contract or agreement, transportation and installation costs may be estimated by the contracting officer where the actual costs are not known. When special tools, attachments, or accessories are rented with the machine, the tool acquisition cost for determining rental rates shall be increased to include the price charged the Government for such tools, attachments, or accessories. If this information as to price is not available or cannot be accurately estimated or obtained from the manufacturer of the machine, the Office of the Assistant Secretary of Defense (Supply and Logistics) will provide a basis for estimating the acquisition cost.

(2) As to personal property and equipment constituting industrial facilities other than metal working equipment covered in subparagraph (1) of this paragraph, and with respect to which there are no prevailing commercial rates, a rent at the rate of not less than 1 percent per month of the original acquisition cost of such property or equipment shall be charged.

(b) Except to the extent otherwise permitted by Departmental procedures in the case of property covered by paragraph (a) (2) of this section, the contract or agreement under which property covered by this section is made available shall require the user to protect, preserve, maintain and repair the property in accordance with sound industrial practice without cost to the Government under such contract or agreement.

(Sec. 3, 62 Stat. 259; 50 U. S. C. App. 1193)

PART 16—PROCUREMENT FORMS

Sections 16.303–2, and 16.501, as revised reflects a revision of the understanding between GSA and DoD relative to the procurement of utility services. In a letter dated January 10, 1957, the Administrator, General Services described the effect of this revision as follows: "It is our understanding that this amendment will permit the military departments to negotiate special rates where those are appropriate. It is understood that where negotiations do not lead to the adoption of special rates for service conditions that your departments will continue to utilize the GSA area-wide contract."

SUBPART C—PURCHASE AND DELIVERY ORDER FORMS

The introductory paragraph of § 16.303–2 is amended to read as follows:

§ 16.303–2 *Conditions for use.* DD Form 1155 shall be used as a purchase order or as a delivery order, regardless of the number of deliveries or payments contemplated, except where utility services are procured under GSA area contracts as provided in Part 5, Subpart H, of this subchapter.

* * * * *

SUBPART E—SPECIAL CONTRACT AND ORDER FORMS

§ 16.501 *Negotiated utility service contract forms.* This paragraph prescribes forms for the negotiated procurement of utility services which, as used herein, includes only electric, gas, water, sewage, and steam services, except where such services are procured under GSA area contracts as provided in Part 5, Subpart H, of this subchapter.

SUBPART F—FORMS FOR COORDINATED PROCUREMENT

Section 16.601 has been amended to conform to DoD Instruction 4000.17, 9 October 1956, which separates interdepartmental stock transfers from the coordinated procurement program, provides for proper citation of appropriations and funds, and sets permissible limits of deviations from authorized funding. The MIPR will no longer be used as a supply requisition. Section 16.601, as revised, reads as follows:

§ 16.601 *Military Interdepartmental Purchase Request (DD Form 448, 448–1).* When an assignment of procurement responsibility has been made by the Secretary of Defense, DD Form 448, Military Interdepartmental Purchase Request (MIPR), shall be used by the requiring Military Departments to—

(a) Request the procurement of supplies by the procuring Department or agency;

(b) Permit the procuring Department or Agency to authorize manufacture of the necessary supplies.

DD Form 448 is authorized for use in effecting other types of coordinated procurement pursuant to Part 4 of this subchapter. When a continuation sheet is necessary, DD Form 448–1 (MIPR Continuation Sheet) shall be used.

SUBPART H—MISCELLANEOUS FORMS

1. Section 16.807 has been revised as follows:

Section 16.807–2 is reserved. Section 16.807–3 is deleted. As revised, § 16.807 reads as follows:

§ 16.807 *Individual Procurement Action Report (DD Form 350).*

§ 16.807–1 *General.* DD Form 350 is designed to provide essential procurement records and statistics through a single uniform reporting program as a basis for required recurring and special reports to the President, the Congress, the Office of Defense Mobilization, the General Accounting Office, the Renegotiation Board, the Small Business Administration, and other Federal agencies. Some of these requirements are referred to in §§ 1.302–2, 3.103, 3.211–4, and 3.216–4 of this subchapter. It also provides the Departments with a wide variety of significant data for procurement policy and management control purposes, and provides the Department of Labor with data required in connection with the administration of the Walsh-Healey Public Contracts Act.

§ 16.807–2 *Conditions for use.* [Reserved.]

§ 16.807–3 *Preparation of forms.* [Deleted.]

2. Amendments to § 16.811 now require wider distribution of DD Form 254, "Security Requirements Check List" when directed by departmental procedures.

Section 16.811, as revised, reads as follows:

§ 16.811 *Security Requirements Check List (DD Form 254).* The "Military Security Requirements" clause (§§ 7.104–12 and 7.204–12 of this subchapter) is included in all contracts which are classified "Confidential" inculding "Confidential—Modified Handling Authorized" or higher and in any other contracts the performance of which will require access to such classified information or material. Contracting officers shall inform contractors of the security classifications assigned to the various documents, materials, tasks, subcontracts, and components of classified contracts by using DD Form 254. Instructions for preparation are included in the form. The contracting officer is responsible for preparation of the form and shall insure that it is physically attached to the copies of the contract forwarded to the contractor, the material inspector, and such other interested agencies as may be determined by the Military Departments.

(R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21, sec. 638, 66 Stat. 537; 41 U. S. C. 151–162)

PERKINS MCGUIRE,
Assistant Secretary of Defense,
(Supply and Logistics).

AUGUST 2, 1957.

[F. R. Doc. 57–6454; Filed, Aug. 7, 1957; 8:45 a. m.]

[Amdt. 21]

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The following amendments are made to the Armed Services Procurement Regulations:

PART 7—CONTRACT CLAUSES

SUBPART E—CLAUSES FOR PERSONAL SERVICES CONTRACTS

1. Section 7.503–10 has been deleted from this subpart.

2. Section 7.504–2 *Data and copyrights* has been added to this subpart. Section 7.504–2 reads as follows:

§ 7.504–2 *Data and copyrights.* If it is probable that the contractor will prepare and deliver to the Government in the performance of the contract writings, sound recordings, pictorial reproductions, drawings or other graphical representations and works of any similar nature (whether or not copyrighted), insert an appropriate clause in accordance with departmental procedures.

(R. S. 161; 5 U. S. C. 22. Interprets or applies 62 Stat. 21, sec. 638, 66 Stat. 537; 41 U. S. C. 151–162)

PART 9—PATENTS, COPYRIGHTS, AND TECHNICAL DATA

Subpart B has been revised, the new title of which is "Data and Copyrights". The revised subpart prescribes Department of Defense policy, implementing instructions and contract clauses in connection with the use of data and copyrights. Data include writings, sound recordings, pictorial reproductions, drawings, or other graphic representations and works of any similar nature (whether copyrighted or not). This revised Subpart B supersedes § 9.112, which will be physically deleted in a subsequent revision. Subpart B, as revised, reads as follows:

SUBPART B—DATA AND COPYRIGHTS

Sec.

AUTHORITY: §§ 9.200 to 9.205–2 issued under sec. 1, 54 Stat. 712, as amended, sec. 201, 55 Stat. 839, as amended, secs. 2–12, 62 Stat. 21–26, as amended, sec. 638, 66 Stat. 537; 50 U. S. C. App. 1171, 611, 41 U. S. C. 151–161, 162, E. O. 9001, 6 F. R. 6787, as amended by E. O. 9262, 8 F. R. 1429; 3 CFR, 1943 Cum. Supp.

§ 9.200 *Scope of subpart.* This subpart sets forth the Department of Defense policy, implementing instructions, and contract clauses with respect to acquisition and use of writings, sound recordings, pictorial reproductions, drawings, or other graphic representations and works of any similar nature (whether or not copyrighted), hereinafter called "data", furnished under contract.

§ 9.201 *Definitions.* For the purposes of this subpart, the following terms have the meanings set forth below:

(a) "Operational data" means data providing information suitable, among other things, for instruction, operation, maintenance, evaluation or testing.

(b) "Design data" means data providing descriptive or design drawings which could be used by any competent manufacturer, in conjunction with its own internal manufacturing techniques and processes, to reproduce the supplies and services.

(c) "Proprietary data" means data providing information concerning the details of the contractor's trade secrets or manufacturing processes which are not disclosed by the design itself and which the contractor has the right to protect from use by others.

(d) "Standard commercial items" means supplies or services which are sold or offered to the public commercially.

§ 9.202 *Acquisition and use of data and copyrights.*

§ 9.202–1 *Acquisition of data*—(a) *General.* It is the policy of the Department of Defense to acquire only that data which is essential for the purposes for which it is intended to be used. Generally "operational data" and "design data" should satisfy government requirements. Further, data shall not be acquired for other than governmental purposes. The price for such data may be listed separately from the price for other items being purchased in the contract.

(b) *Supply contracts.* In advertised contracts and in contracts for standard commercial items, "proprietary data" should not be requested. "Proprietary data" will be obtained under contracts for other than standard commercial items only when a clear government need for such data is established. When "proprietary data" is so obtained, there shall be a specific negotiation for such data and the contractual requirement shall be listed as a separate contract item.

(c) *Contracts for experimental, developmental, or research work.* In a contract which has as one of its principal purposes experimental, developmental, or research work and also calls for models of equipment or practical processes, the contractor shall be required to furnish all data necessary to enable manufacture of the equipment or performance of the process; except that such data need not be required for standard commercial items to be furnished under the contract and to be incorporated as component parts in or to be used with the product being developed if, in lieu thereof, requirement is made for identification of source, and performance specifications and characteristics sufficient to enable the Government to procure from any supplier the part or an adequate substitute. Under such a contract the Government is entitled to all data resulting from performance thereunder. Any previously developed "proprietary data" should be required only where the product could not readily be manufactured or the process performed without the use of such "proprietary data."

§ 9.202–2 *Use of data*—(a) *Operational and design data.* Since "operational data" and "design data" as defined above do not call for the disclosure of details of the contractor's trade secrets or manufacturing processes which the contractor has the right to protect, such data should be obtained without any limitation as to its use by the Government.

(b) *Proprietary data*—(1) *Contracts for experimental, developmental, or research work.* When "proprietary data" is obtained under a contract having as one of its principal purposes experimental, developmental, or research work, in accordance with § 9.202–1 (c), it shall be obtained without limitation as to its use.

(2) *Supply contracts.* When "proprietary data" is obtained by negotiation under a supply contract, in accordance with § 9.202–1 (b), the purpose for obtaining it will govern its use. If it was obtained for the purpose of enabling the Government to establish additional sources of supply, it should be obtained without limitation as to its use. Where, however, it has been determined to be necessary to obtain "proprietary data" for some limited purpose, such as emergency manufacture by the Government, such data may be obtained subject to limitation as to its use. In such cases the contract clause contained in § 9.203–2 shall be included in the contract and the contract Schedule shall specifically identify the data which shall be subject to limited use.

§ 9.202–3 *Multiple sources of supplies.* The Government's interest in establishing multiple sources for supplies and services arises from its need, among other things, to (a) facilitate competition for defense procurement, (b) insure fulfillment of its current and mobilization requirements, and (c) take advantage of small business potential. The foregoing policies provide one means for accomplishing this objective and are particularly effective where data acquired by the Government is usable, without more, to obtain competition. However, where highly complex technical equipment is involved and acquisition of data, without technical assistance from the primary source, is inadequate to establish second sources, Government participation in any licensing and technical assistance arrangements may be necessary to protect the Government's interest with respect to such factors, among others, as (1) investment in facilities, (2) competency of source, (3) timing of establishment of second sources, and (4) allocation of orders among sources. In many instances, involving relatively simple items, commercial or military, which have been developed by a contractor at its own expense, participation by the Government may be unnecessary where the primary source is willing to establish other sources by direct contractor to contractor licensing arrangements. No single method can be prescribed for meeting the second source problem; each situation must be handled on its own merits.

§ 9.202–4 *Delivery of data for use in foreign countries.* Where the Department of Defense proposes to make available any data in its possession for use in a foreign country, it shall, to the maximum extent practicable, give reasonable notice thereof to the contractor who furnished the data, provided that the contractor has previously requested such notice in order to protect its foreign patent position.

§ 9.202–5 *Copyrights.* It is the policy of the Department of Defense generally to reserve only a license under copyright on any copyrighted data, leaving the contractor free to copyright the material. With respect to certain data produced, written, or compiled for the Department of Defense, such as (a) motion pictures and works relating thereto, and (b) histories and other works re-

lating to operation of the Department of Defense, the Government may desire that no adverse claim of copyright be established in such data, and that the Government's right to reproduce and use such data shall be unlimited.

§ 9.203 *Contract clauses; general.* Except as otherwise provided in § 9.204 and § 9.205, in any contract in which data are specified to be delivered, insert, in accordance with § 9.202–2, one of the following clauses, as appropriate:

§ 9.203–1 *Unlimited rights to use data.*

RIGHTS IN DATA—UNLIMITED

(a) The term "Subject Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses and other information incidental to contract administration.

(b) Subject to the proviso of (c) below, the Government may duplicate, use, and disclose in any manner and for any purpose whatsoever, and have others so do, all Subject Data delivered under this contract.

(c) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, non-exclusive and irrevocable license throughout the world, to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all Subject Data now or hereafter covered by copyright: *Provided,* That with respect to such Subject Data not originated in the performance of this contract but which is incorporated in the work furnished under this contract such license shall be only to the extent that the Contractor, its employees, or any individual or concern specifically employed or assigned by the Contractor to originate and prepare such Data under this contract, now has, or prior to completion or final settlement of this contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(d) The Contractor shall exert all reasonable effort to advise the Contracting Officer, at the time of delivery of the Subject Data furnished under this contract, of all invasions of the right of privacy contained therein and of all portions of such Data copied from work not composed or produced in the performance of this contract and not licensed under this clause.

(e) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Subject Data delivered under this contract.

(f) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(g) The Contractor shall not affix any restrictive markings upon any Subject Data, and if such markings are affixed, the Government shall have the right at any time to modify, remove, obliterate or ignore any such marking.

§ 9.203–2 *Limited rights to use data.*

RIGHTS IN DATA—LIMITED

(a) The term "Subject Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses and other information incidental to contract administration.

(b) Subject Data delivered under this contract shall not be released outside the Government, nor be duplicated, used, or disclosed in whole or in part for procurement or manufacturing purposes (other than for manufacture required in connection with repair or overhaul where an item is not procurable commercially so as to enable the timely performance of the overhaul or repair work and provided that when Data is released by the Government to a contractor for such purposes, the release shall be made subject to the limitation of this clause and provided further that such Data shall not be used for manufacture or procurement of spare parts for stock), without permission of the Contractor, if: (i) the Subject Data to be so limited is identified in the Schedule as being subject to limitations; and (ii) the following legend is marked on each piece of data so limited [in third blank of legend, identify portion or pages to which legend is applicable]:

This _____ is furnished under U. S. Government Contract No. _____, and _____ shall not be released outside the Government (except to foreign governments, subject to these same limitations), nor be disclosed, used, or duplicated, for procurement or manufacturing purposes, except as otherwise authorized by said contract, without the permission of _____. This legend shall be marked on any reproduction hereof in whole or in part.

Provided, That such Data may be delivered to foreign governments as the national interest of the United States may require, subject to the limitations specified in this paragraph. The Contractor shall not impose limitations on the use of any piece of Data, or any portion thereof, containing information first produced in the performance of a government contract.

(c) Notwithstanding any provisions of this contract concerning inspection and acceptance, the Government shall have the right at any time to modify, remove, obliterate or ignore any marking not authorized by the terms of this contract on any piece of Subject Data furnished under this contract, subject to the right of the Contractor to appeal under the "Disputes" clause from the decision of the Contracting Officer.

(d) Subject to the proviso in (e) below, the Government may duplicate, use, and disclose in any manner and for any purpose whatsoever, and have others so do, all Subject Data not covered by (b) above which is delivered under this contract.

(e) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, non-exclusive and irrevocable license throughout the world, to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all Subject Data now or hereafter covered by copyright: *Provided,* That with respect to such Subject Data not originated in the performance of this contract but which is incorporated in the work furnished under this contract such license shall be only to the extent that the Contractor, its employees, or any individual or concern specifically employed or assigned by the Contractor to originate and prepare such Data under this contract, now has, or prior to completion or final settlement of this contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(f) The Contractor shall exert all reasonable effort to advise the Contracting Officer, at the time of delivery of the Subject Data furnished under this contract, of all invasions of the right of privacy contained therein and of all portions of such Data copied from work not composed or produced in the performance of this contract and not licensed under this clause.

(g) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Subject Data delivered under this contract.

(h) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent. Nothing contained in this clause shall be construed as prohibiting the Government from manufacturing, or having manufactured for it by or procuring from others than the Contractor, that which is shown in or by such Data, so long as the Data, or a copy in whole or in part, to which the limitation in (b) above applies, is not used in such manufacture or procurement.

§ 9.204 *Contract clauses; special.*

§ 9.204–1 *Limitation on Government's right of publication for sale to the general public.* The paragraph set forth below may be added to the clause of § 9.203–1 when, in contracts for research, the Contracting Officer determines in accordance with departmental procedures that public dissemination of the work or certain designated parts of the work specified to be delivered under contract is in the best interest of the Government and would be facilitated by the Government relinquishing its right to publish for sale or to have others publish for sale for it. This paragraph shall not be used otherwise.

(h) If the Contractor publishes for sale or causes to be published for sale within ____ months after final settlement of this contract or within such additional period as the Contracting Officer may approve, but in any event within a period no greater than 24 months, the Subject Data designated immediately following this paragraph, which is delivered under this contract, the Government agrees not to publish for sale or authorize others so to do. This limitation on the Government's right to publish for sale shall continue as long as the work is protected by copyright, with respect to any such designated work which is so published within such period of time, and as to all work not so published within such period of time, this paragraph shall be of no force or effect. The following Subject Data is designated:

§ 9.204–2 *Production of motion pictures.* The clause set forth below is approved for use in contracts for the production of motion pictures with or without accompanying sound, and in all contracts for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptations, and the like:

RIGHTS IN DATA

(a) The term "Subject Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses and other information incidental to contract administration.

(b) All Subject Data first produced in the performance of this contract shall be the sole property of the Government. The Contractor agrees not to assert any rights at common law or equity and not to establish any claim to statutory copyright in such

Data. The Contractor shall not publish or reproduce such Data in whole or in part or in any manner or form, nor authorize others so to do, without the written consent of the Government until such time as the Government may have released such Data to the public.

(c) The Contractor agrees to grant and does hereby grant to the Government and to its officers, agents and employees acting within the scope of their official duties, a royalty-free, non-exclusive, and irrevocable license throughout the world (i) to publish, translate, reproduce, deliver, perform, use, and dispose of, in any manner, any and all Data not first produced or composed in the performance of this contract but which is incorporated in the work furnished under this contract; and (ii) to authorize others so to do.

(d) The Contractor shall indemnify and save and hold harmless the Government, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyright or right of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any Data furnished under this contract, or (ii) based upon any libelous or other unlawful matter contained in such Data.

(e) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

§ 9.204–3 *Histories and other works.* The contract clause set forth in § 9.204–2 is suggested for use in contracts for:

(a) Histories of the respective Departments or services or units thereof;

(b) Works pertaining to recruiting, morale, training or career guidance;

(c) Surveys of government establishments;

(d) Works pertaining to the instruction or guidance of government officers and employees in the discharge of their official duties.

§ 9.205 *Contracts for acquisition of existing works.*

§ 9.205–1 *Off-the-shelf purchase of books and similar items.* Notwithstanding the instructions of any other section in this subpart, no contract clause contained in this subpart need be included in contracts for the separate, sole procurement of data, other than motion pictures, in the exact form in which such material exists prior to the initiation of a request for purchase (such as off-the-shelf purchases of existing products) unless the right to reproduce such data is an objective of the contract.

§ 9.205–2 *Contracts for existing motion pictures.* Contracts for the procurement of existing motion pictures or for the modification of existing motion pictures shall be made in accordance with departmental procedures.

PERKINS MCGUIRE,
Assistant Secretary of Defense, (Supply and Logistics).

AUGUST 2, 1957.

[F. R. Doc. 57–6455; Filed, Aug. 7, 1957; 8:45 a. m.]

Subchapter C—Military Personnel

PART 56—MEDICAL CARE FOR DEPENDENTS OF MEMBERS OF THE UNIFORMED SERVICES

MISCELLANEOUS AMENDMENTS; CORRECTION

The following correction is made in the Preamble to the changes to this Part 56, which were published in the FEDERAL REGISTER at 22 F. R. 786, 22 F. R. 1035, 22 F. R. 1806 and 22 F. R. 2942, respectively: "The following amendments to Part 56 have been authorized by the Secretary of Defense and the Secretary of Health, Education and Welfare:"

MAURICE W. ROCHE,
Administrative Secretary.

[F. R. Doc. 57–6453; Filed, Aug. 7, 1957; 8:45 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF THE INTERIOR

Effective upon publication in the FEDERAL REGISTER, paragraph (f) (2) of § 6.310 is amended as set out below.

§ 6.310 *Department of the Interior.*

* * *

(f) *Bureau of Reclamation.* * * *

(2) Four Assistant Commissioners.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57–6500; Filed, Aug. 7, 1957; 8:54 a. m.]

PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

EDUCATIONIST; EDUCATIONAL SPECIALIST IN INDIAN SCHOOLS

Section 24.95 is amended and § 24.135 is added as set out below.

§ 24.95 *Educationist, GS–1720–0 (all grades)*—(a) *Educational requirement.* Applicants must have completed a full four-year course in an accredited college or university, which must have included or been supplemented by major study in education or in the particular field in which the duties are to be performed.

(b) *Duties.* Educationists advise officials of school systems and community groups concerning technical phases of educational programs; conduct research and provide assistance in planning curriculum content and methods of teaching; and advise local officials in the application of approved educational methods for their individual school and community. These duties vary in nature and responsibility with the field and grade of the position.

(c) *Knowledge and training requisite for performance of duties.* The duties to be performed require knowledge or training in research, teaching, or administration of educational programs and a thorough knowledge of one or more specialized fields of vocational, general, or cultural subjects; comprehensive grasp of the written materials related to the specialized field; ability to impart this knowledge both formally and informally; and an understanding of the relationship of special fields of knowledge to the needs of the school and community as a whole. This knowledge can be gained only through directed training in an accredited college or university. By such training the student, under competent instructors, is guided in his reading and evaluation of the literature, which is so voluminous that an individual cannot master it on his own initiative or by random study. The student has access to libraries and laboratories; is given opportunity to observe materials and methods of devising and implementing educational programs; and, in a controlled and supervised setting, can experiment for himself under professional guidance.

§ 24.135 *Educational Specialist, GS–1710–9–11–12–13 in Indian Schools*—(a) *Educational requirement*—(1) *Adult Education.* Completion of a full 4-year course leading to a degree in an accredited college or university which must have included or been supplemented by 18 semester hours in education of which 6 semester hours must have been in a combination of two or more of the following: adult education, elementary or secondary administration, elementary or secondary supervision, home economics, vocational methods, educational sociology or rural education.

(2) *Agriculture.* Completion of a full 4-year course leading to a degree from an accredited college or university which must have included or been supplemented by 18 semester hours in education and 24 hours in agriculture, 4 of which must have been in farm mechanics or farm shop.

(3) *Elementary.* Completion of a full 4-year course leading to a degree in an accredited college or university which must have included or been supplemented by 24 semester hours in education, 12 of which must be elementary education.

(4) *General.* Completion of a full 4-year course leading to a degree in an accredited college or university which must have included or been supplemented by 18 semester hours in education and 16 semester hours in each of two subject matter fields pertinent to the duties of the position.

(5) *Guidance.* Completion of a full 4-year course leading to a degree in an accredited college or university which must have included or been supplemented by 24 semester hours in education and/or guidance of which 12 semester hours must be in guidance or in a combination of two or more of the following: child psychology; educational psychology; educational, vocational or child guidance; clinical psychology;

mental hygiene; health education or educational tests and measurements.

(6) *Home economics.* Completion of a full 4-year course leading to a degree in an accredited college or university which must have included or been supplemented by 18 semester hours in education and 24 semester hours in home economics.

(7) *Secondary.* Completion of a full 4-year course leading to a degree in an accredited college or university which must have included or been supplemented by 18 semester hours in education and 16 semester hours in each of two pertinent subject matter fields.

(8) *Skilled trades (Vocational).* Completion of a full 4-year course leading to a degree in an accredited college or university which must have included or been supplemented by 18 semester hours in education and 24 semester hours in the skilled trades.

(9) *Tests and measurements.* Completion of a full 4-year course leading to a degree in an accredited college or university which must have included or been supplemented by 24 semester hours in education including or supplemented by 12 semester hours in courses that deal with evaluation of the individual.

(10) *Visual aids.* Completion of a full 4-year course leading to a degree in an accredited college or university which must have included or been supplemented by 24 semester hours in education including or supplemented by 12 semester hours in courses that deal with the development or application of visual or application of visual aids.

(b) *Duties.* Educational specialists perform duties of an educational administrative or staff nature which do not involve direct-line supervisory control of the teaching situation. Positions are located at various levels and involve educational research; purely educational guidance, and consultation; planning and development of course materials for educational purposes; development of audio-visual aids to education; participation in in-service training work-shops; assistance in program evaluation and making of recommendations for improvement. The duties vary in nature with the grade and option of the position.

(c) *Knowledge and training requisite for performance of duties.* Full professional knowledge of educational methodology and subject matter is required of incumbents of these positions, including knowledge of teaching principles and techniques; an understanding of the developmental stages, both physical and mental of young people, or of special problems pertaining to adult education; the ability to recognize and devise successful method of dealing with special instructional problems arising in teaching situations; and an understanding of the interrelationship between the formal school situation and non-school activities as educative factors and ability to apply this understanding. This knowledge, understanding, and ability can be gained only through the training shown in paragraph (a) of this section. In regularly organized teacher training departments of accredited colleges and universities prevailing practices have undergone analysis and experimentation, and those found to be most effective have been organized into relevant courses and a system of supervised practice teaching. During the training the student works under competent instructors; has access to well stocked libraries and well equipped laboratories; and learns a variety of methods and techniques which have been demonstrated as effective. The literature in the field of education is so voluminous that an individual cannot master it by random study; guidance in reading is essential for mastery and proper evaluation of the materials in the field.

(Sec. 11, 58 Stat. 390; 5 U. S. C. 860)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-6499; Filed, Aug. 7, 1957; 8:53 a. m.]

TITLE 21—FOOD AND DRUGS

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

Subchapter C—Drugs

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

EXEMPTIONS OF BACITRACIN- (OR ZINC BACITRACIN-) TYROTHRICIN-NEOMYCIN TROCHES FROM PRESCRIPTION-DISPENSING REQUIREMENTS

On June 19, 1957, there was published in the FEDERAL REGISTER (22 F. R. 4326) a notice setting forth a proposal of the Commissioner of Food and Drugs to amend § 146e.420 of the regulations for the certification of bacitracin and bacitracin-containing drugs (21 CFR 146e.-420) to provide for the sale of bacitracin-tyrothricin-neomycin troches and zinc bacitracin-tyrothricin-neomycin troches without the prescription of a practitioner licensed by law to administer such drugs, but with labeling containing adequate protection for their lay use. No comments having been filed with respect to the proposed amendment within the 30-day period stipulated in the above-referenced notice, the amendment set forth below is hereby ordered, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507 (f), 59 Stat. 463; 21 U. S. C. 357 (f)) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045):

Section 146e.420 *Bacitracin-tyrothricin-neomycin troches* * * * is amended by adding thereto a new paragraph (e) reading as follows:

(e) In lieu of the labeling prescribed by § 146e.403 (c) (2), if it does not contain cortisone or a suitable derivative of cortisone, it shall bear on the circular or other labeling within or attached to the package, adequate directions and warnings for the use of such drugs. Such circular or other labeling may also bear a statement that a brochure or other printed matter containing information for other uses of such troches by practitioners licensed by law to administer such drug will be sent to such practitioner upon request.

Any person who will be adversely affected by the foregoing order may, within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., written objections thereto, showing wherein he will be adversely affected by the order, specifying with particularity the provisions of the order deemed objectionable and stating reasonable grounds therefor, and requesting a public hearing on the provisions of the order to which objections are filed. A memorandum or brief supporting the objections filed may be submitted. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective 90 days from the date of its publication in the FEDERAL REGISTER unless it is stayed in whole or in part by the filing of objections and the requesting of a public hearing as set forth above. Notice of the filing of objections, or lack thereof, will be announced by publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

Dated: August 2, 1957.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 57-6456; Filed, Aug. 7, 1957; 8:45 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 112—PARCEL POST

PART 123—INSURANCE

CHART OF RATES AND MAILING CONDITIONS; FEES AND LIMITS OF INSURANCE

I. In § 112.1 *Chart of rates and mailing conditions* make the following changes:

1. As to Andorra, insert under "Air Parcel Post rates" 1.22 for the "First 4 ounces" and .44 for "Each additional 4 ounces."

2. As to Liberia, amend the table so as to indicate the availability of insurance service and the unavailability of registration service.

3. Opposite Windward Islands and under "Air Parcel Post rates", make the following changes:

a. Under "First 4 ounces" insert "[46]1.01".

b. Under "Each additional 4 ounces" insert "[46].34".

4. Footnote 46 is added to read as follows:

[46] Service to Grenade and The Grenadines only.

5. As to the U. S. S. R., Estonia, Latvia, and Lithuania, change the weight limit from 22 pounds to 44 pounds.

II. In § 123.3 *Fees and limits of insurance* amend paragraph (b) (1) as follows: In the table of countries insert

Liberia, with a limit of insurance of $80.00.

(R. S. 161, 396, 398, as amended; 5 U. S. C. 22, 369, 372)

[SEAL] ABE MCGREGOR GOFF,
General Counsel.

[F. R. Doc. 57-6470; Filed, Aug. 7, 1957; 8:48 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1980]

PART 80—TRUSTEE TOWNSITES IN ALASKA

SALES TO FEDERAL, TERRITORIAL, AND LOCAL GOVERNMENTAL AGENCIES; RIGHTS-OF-WAY

On page 3797 of the FEDERAL REGISTER of May 30, 1957, there was published a notice of proposed rule making regarding the issuance of regulations in connection with trustee townsites in Alaska. Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed regulations.

No comments or suggestions were submitted within the 30-day period. Consequently, the proposed regulations are hereby adopted without change and are set forth below.

(Sec. 11, 26 Stat. 1099; 48 U. S. C. 355)

HATFIELD CHILSON,
Acting Secretary of the Interior.

AUGUST 1, 1957.

Sections 80.14a and 80.14b are revised to read as follows:

§ 80.14a *Sales to Federal, Territorial, and local governmental agencies.* (a) Any lot or tract in the townsite which is subject to sale to the highest bidder by the trustee pursuant to Section 80.14 of this chapter may in lieu of disposition at public sale be sold by the trustee at a fair value to be fixed by him to any Federal or Territorial agency or instrumentality or to any local governmental agency or instrumentality of the Territory for use for public purposes.

(b) All conveyances under this section shall be subject to such conditions, limitations, or stipulations as the trustee shall determine are necessary or appropriate in the circumstances, including, where he deems proper, a provision for reversion of title to the trustee or his successor in interest. Any such provision for reversion of title, however, shall by its terms cease to be in effect 25 years after the conveyance.

(c) Conveyances under this section for lands within any incorporated city, town, village, or municipality may be made only after the proposed conveyance has received the approval of the city, town, or village council, or of the local official designated by such council. Such conveyances for lands within any unincorporated city, town, village or municipality may be made only after notice of the proposed conveyance, together with the opportunity to be heard, has been given by the proposed grantee to the residents or occupants thereof in accordance with the requirements for such notice in the case of the public sale of unclaimed lots in a trustee townsite. Any decision by the trustee which is adverse to a protest will be subject to the right of appeal under Part 221 of this chapter. Upon filing of an appeal pursuant to that Part, action by the trustee on the conveyance will be suspended pending final decision on the appeal.

§ 80.14b *Rights-of-way.* (a) Notwithstanding any other provisions of this part, the trustee is authorized to grant rights-of-way for public purposes across any unentered lands within the townsite. This authority is expressly limited to grants of rights-of-way to cities, towns, villages, and municipalities, and to school, utility, and other types of improvement districts, and to persons, associations, companies, and corporations engaged in furnishing utility services to the general public, and to the United States, any Federal or Territorial agency or instrumentality for use for public purposes.

(b) The trustee may in his discretion fix a reasonable charge for any grant under this authority to private persons, associations, companies and corporations, and to Federal and Territorial agencies and instrumentalities, which charge shall be a lump sum. All grants shall be subject to such conditions, limitations, or stipulations as the trustee shall determine are necessary or appropriate in the circumstances. No grants of rights-of-way under this authority shall be made across or upon lands on which prior rights of occupancy or entry have vested under the law.

(c) Grants of rights-of-way under this section to Federal and Territorial agencies and instrumentalities to private persons, associations, companies, or corporations affecting lands within any incorporated city, town, village, or municipality, may be made only after the proposed grant has received the approval of the city, town, or village council, or, where applicable, the municipal board or commission having authority under Territorial law to approve rights-of-way for local public utility purposes. Grants of such rights-of-way to Federal and Territorial agencies and instrumentalities and to private persons, associations, companies, or corporations within unincorporated cities, towns, villages, or municipalities may be made only after notice of the proposed grant, together with the opportunity to be heard, has been given by the proposed grantee to the residents or occupants thereof in accordance with the requirements for such notice in the case of the public sale of unclaimed lots in a trustee townsite. Any decision by the trustee which is adverse to a protest will be subject to the right of appeal under Part 221 of this chapter. Upon the filing of an appeal, action by the trustee on the application for right-of-way will be suspended pending final decision on the appeal.

[F. R. Doc. 57-6460; Filed, Aug. 7, 1957; 8:46 a. m.]

[Circular 1981]

PART 181—VETERANS', SOLDIERS' AND SAILORS' RIGHTS

On pages 3564 to 3567, inclusive, of the FEDERAL REGISTER of May 22, 1957, there was published a Notice of Proposed Rule Making to consolidate and simplify the existing text of regulations governing veterans' rights and privileges under the public land laws. A correction regarding this Notice of Proposed Rule Making also appeared on page 4672 of the FEDERAL REGISTER of July 2, 1957. Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed regulations.

No comments or suggestions were submitted within the 30-day period. Consequently, the proposed regulations are hereby adopted without change and are set forth below.

HATFIELD CHILSON,
Acting Secretary of the Interior.

AUGUST 1, 1957.

The title to Part 181 is amended to read Part 181—Veterans', Soldiers' and Sailors' Rights, and §§ 181.1 to 181.8 are completely revised to read as follows, and §§ 181.9 to 181.15, 181.18, 181.19, and 181.35 to 181.47 are revoked.

PUBLIC LAND RIGHTS OF VETERANS

Sec.
181.1 Statutory authority.
181.2 Who are entitled to veterans benefits.
181.3 Credit for and evidence of service.
181.4 Residence requirements under homestead and Alaska homesite laws.
181.5 Cultivation and other requirements under the homestead and Alaska homesite laws.
181.6 Soldiers' and sailors' declaratory statements.
181.7 Preference rights of application and settlement.
181.8 Boulder Canyon Project.

AUTHORITY: §§ 181.1 to 181.8 under sec. 6, 45 Stat. 1061, as amended, sec. 5, 58 Stat. 748, as amended; 43 U. S. C. 617e, 283.

§ 181.1 *Statutory authority.* (a) The act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284), as amended, referred to in this part as the "1944 Act", grants to veterans of World War II and of the Korean Conflict certain benefits in connection with the public lands. These rights are in addition to the benefits conferred on persons in the military service by the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1178; 50 U. S. C., App. 560–572), as amended, and the regulations thereunder in this part, relating to rights initiated or acquired under the public land laws prior to the entrance of the claimant into the military or naval service.

(b) Other statutes have granted benefits under the homestead laws (43 U. S. C. 164, 169, 218) to veterans who served in earlier wars. The veterans benefited, referred to in this part as "veterans of other wars" and the statutes conferring the benefits are as follows: Veterans of certain Indian Wars, act of April 7, 1930 (46 Stat. 144; 43 U. S. C. 243); veterans of the Civil War, Sec. 2305, Revised Statutes (43 U. S. C. 272); veterans of the war with Spain and of the suppression of the Philippine Insurrection, acts of June 16, 1898 (30 Stat. 473; 43 U. S. C.

240) and of March 1, 1901 (31 Stat. 847; 43 U. S. C. 271, 272); and veterans of the Mexican border operations and of World War I, act of February 25, 1919 (40 Stat. 1161; 43 U. S. C. 272a, 278), as amended by the act of April 6, 1922 (42 Stat. 491; 43 U. S. C. 233, 272, 273), and Public Resolution 79 of December 28, 1922 (42 Stat. 1067; 43 U. S. C. 186, 272a).

§ 181.2 *Who are entitled to veterans' benefits.* (a) A veteran is entitled to benefits under the 1944 act if he has served in the military or naval forces of the United States including the Coast Guard, on or after September 16, 1940, and prior to the termination of the Korean Conflict [1], referred to in this part as the "statutory period" of the 1944 act, and has been honorably discharged from such forces. The veteran is considered to have been honorably discharged for the purposes of the 1944 act if separated from the service by means of an honorable discharge, by the acceptance of resignation, or by a discharge under honorable conditions. A release from active duty is acceptable instead of a discharge if the release from active duty to an inactive status was under honorable conditions, whether or not in a reserve component or retirement, and whether or not the veteran thereafter resumes active military duty. In addition, the veteran must have:

(1) Served at least 90 days during the statutory period, or

(2) Been discharged on account of wounds received or disability incurred during the statutory period in line of duty, or

(3) After regular discharge, been furnished hospitalization or awarded compensation by the Government on account of wounds received or disability incurred during the statutory period.

A veteran, under 21 years of age, who is otherwise entitled to benefits under the 1944 act, may not be disqualified from making homestead entry or from any other benefits of the 1944 act merely because of age.

(b) A "veteran of other wars" is entitled to benefits if he was honorably discharged and served:

(1) With the United States Army or Navy or with a unit of the Federalized National Guard mustered into the United States service or with a Red Cross unit assigned to an Army or Navy unit, if the veteran served between April 15, 1861 and August 20, 1866, and remained loyal to the Government; or if he served between April 21, 1898 and July 15, 1903; or between May 9, 1916 and March 3, 1921; or with the Allied armies between July 28, 1914 and March 3, 1921 and thereafter resumed his United States citizenship; and if the veteran served for at least 90 days during any one of those periods, or was wounded or disabled in line of duty while in such service, or was awarded compensation by the United States for wounds or disability resulting from such service; or

(2) With a Federal, State, or Territorial military organization in any Indian War, campaign, or in a zone of active Indian hostilities between January 1, 1817 and December 31, 1898, if the veteran served for at least 30 days.

(c) The following persons may exercise the rights of a veteran under the regulations of this part, subject to compliance with other applicable regulations:

(1) The wife or husband of a veteran entitled to benefits under the 1944 act, if the veteran gives written consent, such benefits being in addition to any to which the spouse may individually be entitled under the 1944 act as a qualified veteran.

(2) The surviving wife or husband, or the surviving minor children if the spouse dies or remarries, of a veteran entitled to benefits under the 1944 act or of a person who died as the result of wounds received or disability incurred in line of duty while serving with the military or naval forces during the statutory period of the 1944 act.

(3) The heirs or devisees of a veteran entitled to the benefits of the 1944 act with respect to a homestead settlement or entry made by the veteran who died before perfecting title to the claim, without leaving a surviving spouse or minor children.

(4) The unmarried widow of a "veteran of other wars" entitled to benefits under the regulations of this part who died prior to making homestead entry, or the widow of such a veteran who died after making homestead settlement or entry or filing a declaratory statement but prior to perfecting his claim.

(5) The minor orphan children of a "veteran of other wars" entitled to benefits under the regulations of this part if:

(i) The veteran died prior to making homestead entry or died while actually engaged in the war with Spain, the Philippine Insurrection, the Mexican border operation, or World War I after settling on public lands of the United States, and if the widow died or remarried; or

(ii) The veteran made homestead entry or filed a declaratory statement or his widow made homestead entry but died prior to perfecting the claim, leaving a minor child or minor children as his or her only heirs.

(6) The heirs or devisees of any "veteran of other wars" entitled to benefits under the regulations of this part who made homestead settlement or entry, or filed a declaratory statement, but died before perfecting title to the claim, leaving no widow or surviving minor children entitled as his only heirs to benefits under the regulations of this part.

§ 181.3 *Credit for and evidence of service.* (a) Any person, entitled to benefits under the regulations of this part, may obtain credit only for actual service, with the organizations and for the "statutory periods" specified in the regulations of this part, subject to minimum requirements specified in the regulations, in this part except as follows:

(1) Credit is granted for the equivalent of two years' service, regardless of the actual length of service by a veteran entitled to the benefits of the 1944 act, if the veteran was discharged because of wounds received or disability incurred in line of duty during the "statutory period" of the 1944 act; or after regular discharge, was furnished hospitalization or awarded compensation by the Government on account of such wounds or disability; or died as the result of wounds received or disability incurred in line of duty during such period.

(2) Credit is granted for the whole term of enlistment, regardless of actual length of service by any "veteran of other wars" who was discharged because of wounds received or disability incurred in the line of duty, or who subsequent to discharge was awarded compensation for such wounds or disability.

(3) Credit is granted for the whole term of enlistment, regardless of actual length of service by any "veteran of other wars", except of the Indian wars, if the veteran died during the term of his enlistment.

(4) Credit is granted for service by any "veteran of other wars" except of the Indian wars, for the full term of the service under his enlistment, although such term did not expire until after the war ceased.

(5) Credit granted for service between May 9, 1916 and March 3, 1921, includes time spent in a course of training under the Vocational Rehabilitation Act of June 27, 1918 (40 Stat. 617) or under treatment in a Government hospital on account of wounds or disabilities incurred in line of duty during that period.

(b) For the purpose of the regulations of this part, credit for service in the military or naval forces of the United States begins upon induction into such service whether by enlistment, draft, appointment, or call into active service from a reserve status. Credit for service by a veteran entitled to the benefits of the 1944 act terminates upon his honorable discharge or release from active duty under honorable conditions to an inactive status, whether or not in a reserve component, or retirement, and whether or not he has thereafter resumed active duty. He is considered to have been honorably discharged for the purposes of the 1944 act if he has been separated from the service by means of an honorable discharge, or by the acceptance of resignation or a discharge under honorable conditions. Credit for the service by a member of the Naval Reserve or of the Federalized National Guard who was called into active service during the Mexican border operations or during World War I terminates upon the date of his actual discharge, and not upon the date that he was ordered to inactive duty. Except for veterans of Indian wars who served with State or Territorial troops, qualifying service does not include service with State or Territorial troops, units of the Red Cross, or the National Guard prior to assignment or after the termination of the assignment of such units or troops into the service of the United States.

[1] As of the date of issuance of §§ 181.1 to 181.8, the Korean Conflict has not yet been declared terminated by Presidential proclamation or by concurrent resolution of Congress, as required by the 1944 act.

(c) No credit for military service can be allowed where commutation proof is submitted.

(d) A veteran claiming benefits under this part must submit evidence clearly showing:

(1) A discharge from the armed forces or other unit on the basis of service with which he claims benefits under the regulations in this part;

(2) The period of his service; and

(3) Other facts upon which his claim is based.

Preferred evidence for subparagraphs (1) and (2) of this paragraph is a photostatic copy of both sides of the veterans certificate of discharge although other duly corroborated evidence will be accepted.

(e) Any other person claiming benefits under this section must submit all the evidence required of a veteran; and in addition, must include information as to whether the veteran is deceased, the date of his or her death, and whether the spouse has remarried, and facts as to homestead entry made by the veteran. A guardian, duly appointed and accredited to the Department must represent any surviving minor children. He must submit a like statement, and in addition give the name, address, and age of each surviving minor child.

§ 181.4 *Residence requirements under the homestead and Alaska homesite laws.* (a) Persons claiming benefits under the regulations in this part must comply with the homestead or Alaska homesite laws, as the case may be, for a period of at least one year and for such additional period as, added to the term of qualifying service, equals three years. Except as elsewhere indicated in this section, the following tables list the amount of residence required of such persons, according to the service credit to which they are entitled.

(1) Residence requirements under the homestead laws (43 U. S. C., sec. 161, et seq.): [2]

Number of months of service credit	Number of months of residence required during the first 3 years after entry		
	1 year	A second year	A third year
19 or more	7		
18	7	1	
17	7	2	
16	7	3	
15	7	4	
14	7	5	
13	7	6	
7 to 12	7	7	
6	7	7	1
5	7	7	2
4	7	7	3
3	7	7	4
2	7	7	5
1	7	7	6

[1] Applicable only as to service in any Indian war, campaign, or in a zone of active Indian hostilities since veterans need a minimum of only 30 days service to obtain statutory benefits for such service.

[2] In the computation of the required periods of homestead residence, there has been excluded the five months' of absence each year which may be taken by giving notice as required in Part 166 of this chapter.

(2) Residence requirements under the Alaska Homesite Act (48 U. S. C., sec. 461): [3]

Number of months of service credit	Number of months of residence required after entry		
	1 year of the entry	A second year of the entry	A third year of the entry
17 or more	5		
16	5	1	
15	5	2	
14	5	3	
13	5	4	
5 to 12	5	5	
4	5	5	1
3	5	5	2

(b) The following persons are excused from residence requirements:

(1) The surviving spouse, surviving minor orphan children, or other heirs or devisees, of a homestead entryman, who have succeeded to the homestead entry are excused from further residence on the land after the death of the entryman.

(2) Surviving minor orphan children of a veteran entitled to the benefits of the 1944 act who made an Alaska homesite entry are excused from further residence on the land after death of the entryman.

§ 181.5 *Cultivation and other requirements under the homestead and the Alaska homesite laws.* (a) An entryman entitled to benefits under the regulations in this part must comply with the requirements of these regulations and any others relating to his entry under the homestead or Alaska homesite law. If the entryman succeeds to the rights of a deceased entryman, the successor must show that the deceased entryman had complied with the applicable laws and regulations up to the time of his death.

(b) A homestead entryman obtaining benefits under the regulations in this part, may comply with the cultivation and other requirements and become entitled to a patent for his homestead prior to the termination of the three-year period otherwise required of homestead entrymen for such compliance, if he promptly files his final homestead proof. He must in any case cultivate at least one-eighth of the area entered. The following tables indicate the area of cultivation required under the homestead law of such persons, according to the service credit to which they are entitled.

(1) Cultivation requirements [4] under the homestead laws for persons entitled to the benefits of the 1944 act:

[3] These reduced residence requirements are applicable only to persons entitled to the benefits of the 1944 act.

[4] A person entitled to benefits under the regulations of this part may receive a reduction in the area to be cultivated under the homestead regulations (Part 166 of this chapter) in the same manner and under the same conditions required of other applicants.

Year after date of entry during which proof is filed [1]	Portion of entry required to be cultivated				
	First year	Second year	Third year	Fourth year	Fifth year
First [2]	1/8				
Second [2]		1/8			
Third		1/16	1/8		
Fourth		1/16	1/8	1/8	
Fifth		1/16	1/8	1/8	1/8

[1] This table assumes that final homestead proof is filed promptly after competion of the cultivation requirements listed in the above table. The homestead law requires cultivation until final proof. If the homesteader delays submission of final homestead proof beyond the period of residence required, therefore, he must perform the necessary cultivation during each annual cultivable season elapsing or reached before the submission of proof, except for those years to which his service credit is applied.

[2] Applicable only to persons entitled to credit for 19 months or more of service.

[3] Applicable only to persons entitled to credit for 7 months or more of service.

(2) Cultivation requirements [4] under the homestead laws for persons entitled to the benefits of "veterans of other wars":

Year after date of entry during which proof is filed [1]	Portion of entry required to be cultivated				
	First year	Second year	Third year	Fourth year	Fifth year
First [2]					
Second [2]		1/16			
Third		1/16	1/8		
Fourth		1/16	1/8	1/8	
Fifth		1/16	1/8	1/8	1/8

[1] See footnote 1 in table in subparagraph (1) of this paragraph.

[2] See footnote 2 in table in subparagraph (1) of this paragraph.

[3] See footnote 3 in table in subparagraph (1) of this paragraph.

(c) The following persons are excused from any further compliance with the requirements of laws and regulations relating to the entries to which they have succeeded, nor do they have to show that the entryman had complied with applicable laws and regulations prior to his death:

(1) The surviving minor orphan children of a person entitled to the benefits of the 1944 act.

(2) The surviving minor orphan children of anyone else who made homestead entry but who died prior to perfection of title, leaving only a minor child or minor children.

(3) The widow of a veteran, or in case of her death or remarriage, the surviving minor children, if the veteran settled on the public lands but died prior to perfecting his title, while actually engaged in the military or naval service of the United States during the war with Spain, the Philippine Insurrection, the Mexican border operations, or World War I.

§ 181.6 *Soldiers' and Sailors' declaratory statements.* (a) "Veterans of other wars" may initiate a homestead entry by filing a soldiers' and sailors' declaratory statement. Veterans who served between May 9, 1916, and March 3, 1921, must file their statements in person on Form 4–546. Others may file either on Form 4–545 through an agent acting under power of attorney, or on Form 4–546 when filing in person. Such statements must be accompanied by a filing fee of

$3 if the lands are located in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, or Wyoming and by a filing fee of $2.00 if the lands are located elsewhere.

(b) In Alaska the veteran must commence residence on the land within 6 months after the filing of his statement. Elsewhere, he must commence residence within 6 months after allowance of his entry.

(c) Filing of a declaratory statement segregates the lands from all forms of appropriation.

(d) Filing of a declaratory statement in Alaska exhausts the person's homestead right, subject to such relief as may be provided by the general homestead laws.

§ 181.7 *Preference right of application and settlement.* (a) From September 27, 1944, to September 26, 1959, inclusive, any person entitled to benefits under the 1944 act, has a preferred right for a period of 90 days upon the restoration or opening of public lands to application or entry, subject to requirements of applicable law:

(1) To apply for such lands under the homestead or desert-land laws, the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, or the Alaska Home Site Act of May 26, 1934 (48 Stat. 908, 48 U. S. C. 461), and

(2) To settle on such unsurveyed lands in Alaska under the homestead or homesite laws.

(b) The preference rights of this section are not applicable to the following:

(1) Lands made available through the termination of an entry, selection, location, or similar appropriation,

(2) Lands in an order of revocation processed in order to assist in a Federal land program other than the ones authorized by the homestead, desert land, small tract, and homesite laws,

(3) Lands subject to existing valid rights or preference rights conferred by existing laws or equitable claims subject to allowance and confirmation, and

(4) Lands eliminated from national forests and covered by the claims of holders of permits issued by the Department of Agriculture whose permits have been terminated because of such elimination and who own valuable improvements on such lands (act of June 3, 1948, 62 Stat. 305; 43 U. S. C. 284).

(c) Until September 27, 1959, lands subject to the preference rights of this section will be restored or opened to application or entry by an order published in the FEDERAL REGISTER, specifically providing for such preference rights.

§ 181.8 *Boulder Canyon Project.* Under the terms of section 9 of the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1063) as amended by the act of March 6, 1946 (60 Stat. 36, 43 U. S. C. 617h), all persons who served in the Army, Navy, Marine Corps, or Coast Guard during World War II, World War I, the war with Spain, or in the suppression of the insurrection in the Philippines, and who have been honorably separated or discharged therefrom or placed in the regular Army or Naval Reserve, will have a preference right for a period of three months to enter lands reclaimed by irrigation and reclamation under that act, subject to such qualifications as to industry, experience, character, and capital, as are deemed necessary to give reasonable assurance of success by the prospective settler. Such exclusive preference right is also given by the act cited to veteran settlers on lands watered from the Gila Canal in Arizona and on lands watered from the All-American Canal in California.

[F. R. Doc. 57-6459; Filed, Aug. 7, 1957; 8:46 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11989; FCC 57-925]

[Rules Amdts. 2-3, 7-21, and 8-29]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 7—STATIONS ON LAND IN THE MARITIME SERVICES

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

ADDITIONAL FREQUENCIES IN MARITIME MOBILE SERVICE; EXTENSION OF EFFECTIVE DATE

In the matter of amendment of Parts 2, 7 and 8 of the Commission's Rules to make available additional frequencies in the Maritime Mobile Service in the range 157.3 to 162.0 Mc., Docket No. 11989.

At a session of the Federal Communications Commission held in its offices at Washington, D. C. on the 1st day of August 1957;

The Commission having under consideration its Report and Order in this Docket which was adopted on July 11, 1957, and a request from the Lorain County Radio Corporation which asks the Commission to amend its Report and Order so that the effective date of the amended rules would be later than the ordered effective date of October 1, 1957;

It appearing that in order to act upon Lorain's request it is necessary to reopen the subject docket; and

It further appearing that the rules which were amended in the subject docket concern the interchanging and addition of certain frequency pairs in the 157.3 to 162.0 Mc band; and

It further appearing that the basis for Lorain's request is that such changes in the frequencies could most feasibly be made after the regular season of navigation on the Great Lakes is concluded, i. e., after December 15, 1957; and

It further appearing that the request filed by Lorain is reasonable and the public interest would be served by such a postponement of the effective date of the involved Part 2, 7, and 8 rules; and

It further appearing that, this Order will amend the Commission's prior Report and Order, so that after December 15, 1957, all public correspondence operations will conform to the new frequency pairings provided by the amended rules; and

It further appearing that, in view of the fact that the amendment extends the time in which to effect the new frequency pairings and will accommodate the users of such frequencies, compliance with sections 4 (a) and (b) of the Administrative Procedure Act is unnecessary, and for the same reason, section 4 (c) of that act need not be complied with;

It is ordered, That the effective date of the amendments to Parts 2, 7, and 8 of the Commission's rules, which was stated in paragraph 7 of the Commission's Report and Order as October 1, 1957, is hereby changed to December 15, 1957;

It is further ordered, That the proceedings in Docket 11989 which were reopened by this order are hereby terminated.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6479; Filed, Aug. 7, 1957; 8:50 a. m.]

[Docket No. 11966; FCC 57-887]

[Rules Amdt. 3-84]

PART 3—RADIO BROADCAST SERVICES

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS (TULSA-MUSKOGEE, OKLA.)

In the matter of amendment of § 3.606, *Table of assignments*, Rules Governing Television Broadcast Stations (Tulsa-Muskogee, Oklahoma).

1. The Commission has before it for consideration its Notice of Proposed Rule Making (FCC 57-308), released March 28, 1957, in response to a petition filed by Tulsa Broadcasting Company, licensee of television Station KTVX, Channel 8, Muskogee, Oklahoma, proposing to shift Channel 8 from Muskogee to Tulsa, Oklahoma.

2. Petitioner and the American Broadcasting Company filed comments supporting the proposal. Comments opposing the proposal were filed by KOTV, Inc., licensee of Station KOTV, Channel 6, Tulsa, and by Central Plains Enterprises, Inc., permittee of Station KVOO-TV, Channel 2, Tulsa. Comments were also filed by Arthur R. Olsen, permittee of Station KSPG, Channel 17, Tulsa. Mr. Olson takes no position with respect to the proposal but requests that, in the event Channel 8 is assigned to Tulsa, his authorization for Station KSPG at Tulsa be modified to specify Channel 8 in lieu of Channel 17, with a condition that any mutually exclusive application filed for Channel 8 receive comparative consideration. Reply comments were filed by petitioner and KOTV, Inc.

3. In support of the proposed amendment, Tulsa Broadcasting urges that Muskogee is incapable of supporting a television station and that, due to Muskogee's small size, the proximity and substantially larger size of Tulsa, and the two operating VHF stations at Tulsa, a

Muskogee station must depend upon Tulsa to survive. Petitioner argues that a Muskogee station is seriously handicapped in competing with Tulsa stations for audience and local and national network and non-network business. Tulsa Broadcasting submits an analysis of its sources of revenue for its Muskogee station for the period of June–November, 1956, which indicates that only 10 percent of KTVX's revenue came from Muskogee advertisers and that the remainder came from Tulsa advertisers (44.4 percent), national advertisers (23.7 percent), ABC network (19.6 percent) and from local advertisers in nearby communities (4.59 percent). Petitioner attributes its income from national advertisers and the network solely to its coverage of Tulsa, and claims that loss in maintaining service and operation from its Muskogee studios during this same period totalled $109,625.29; that projected on an annual basis, the loss aggregates $219,250.58, and that no improvement in this situation can be foreseen. It further points out that even with its combined Muskogee-Tulsa operation, KTVX has never operated at a profit. Tulsa Broadcasting submits that the reassignment of Channel 8 to Tulsa would provide Tulsa with a third competitive VHF facility and enable KTVX to become a Tulsa station and to compete on an equal basis with Tulsa stations, thereby increasing the opportunities for more effective competition among a greater number of stations, as well as among the networks. Petitioner states that, as a Tulsa station, KTVX could conduct its primary operation from its present Tulsa auxiliary studios and offer a larger number of public service programs from the Tulsa area. It alleges that it is imperative that KTVX become a Tulsa station, not merely to increase its revenues and to reduce costs, but to insure its continued operation.

4. Tulsa Broadcasting asserts that Muskogee would not be deprived of service if KTVX is made a Tulsa station since it contemplates no change in the station's transmission facilities—which are located approximately equidistant between Tulsa and Muskogee and which provide better than city-grade service to both communities—and that it plans to gear KTVX's programming to serve its entire service area, including Muskogee. Petitioner states that it plans to maintain sales and other personnel in Muskogee to solicit and service commercial accounts and to serve as a contact for those desiring publicity or promotion of community service activities, and that if this cannot be done through its Tulsa studios, an auxiliary studio will be maintained in Muskogee. It urges that the proposed amendment would be consistent with the Commission's actions in the Rome-Chattanooga (Docket 11897) and St. Louis (Docket 11747) alloaction proceedings. Petitioner adds that if there is concern about leaving Muskogee with only UHF Channel 66 for commercial use, it would be technically feasible to assign Channel 36 to Muskogee.

5. The parties opposing the proposed amendment contend that an adequate showing has not been made that Muskogee cannot support a VHF facility; that Tulsa Broadcasting has never attempted to operate exclusively in Muskogee and cannot demonstrate, with limited data based upon a combined Muskogee-Tulsa operation, that a Muskogee operation could not be successful; that the figures given by Tulsa Broadcasting on the allocation of costs between KTVX's Muskogee and Tulsa operations are not broken down nor sufficiently detailed; and that in its computations KTVX improperly attributes only revenues from local Muskogee advertisers to its Muskogee operation. They claim that petitioner's contention that Tulsa is a better source of local programs does not support the conclusion that Muskogee is unable to support a VHF facility; that this same argument could be used to justify removal of Tulsa's present VHF facilities to a larger metropolitan center; and that petitioner is really proposing that Muskogee should lose its only local television outlet so that Tulsa may have three. The opponents submit that adoption of the proposal would be contrary to Congressional mandate, particularly section 307 (b) of the Communications Act, and long-established allocation policies of the Commission adopted pursuant thereto, and that neither the Rome-Chattanooga case nor the deintermixture cases are analagous since adoption of the proposal would permit Station KTVX to operate as a Tulsa station from its present site and would not result in any additional service. It is submitted that the proposed amendment raises a fundamental question of allocations policy; that petitioner's position in operating on a channel assigned to a smaller community in competition with stations on channels assigned to a larger neighboring community is not unique; that if the proposal is adopted, a policy will be established which would be directly applicable to stations in similar positions throughout the country, and would result in the elimination of local service to smaller cities situated near large metropolitan areas.

6. The opposing parties also contend that the proposed amendment would serve only KTVX's private interests and that the proposed reallocation is not necessary to provide a third service to Tulsa, nor an outlet for a third network, since Station KTVX at Muskogee already provides Tulsa with such service. They assert that virtually all of the public service programs which KTVX submits it would be able to originate as a Tulsa station could be originated at Muskogee; that these proposed public service programs are not unique; and that the facilities of the two Tulsa VHF stations already afford Tulsa a variety of public service programs. It is further asserted that the type of advertising and promotion used by Station KTVX, as well as the fact that most of the station's personnel has been moved from Muskogee to Tulsa, and that its Muskogee studios have been stripped of all but a minimum of equipment, raises a question as to whether Tulsa Broadcasting has lived up to its promises and representations with respect to operating as a Muskogee station; and that, in view of KTVX's record as a Muskogee facility, it is unlikely that KTVX as a Tulsa station would provide even its present outlet for local Muskogee expression, particularly since KTVX does not indicate that it would maintain studios in Muskogee.

7. Arthur R. Olson submits that he applied for Channel 17 at Tulsa in October of 1952 when only one Tulsa VHF station was on the air; that while it appeared at that time that a UHF Tulsa station under efficient and aggresive management could compete with two VHF Tulsa stations, the experience of other UHF stations has made it apparent that a Tulsa UHF station under present conditions could not survive, particularly in view of the fact that Station KTVX at Muskogee is also providing VHF service to Tulsa. Mr. Olson states that, although he has not constructed a station on Channel 17, he is desirous of constructing and operating a Tulsa station; that if Channel 8 had been assigned to Tulsa rather than Muskogee in 1952, he would have applied for Channel 8 rather than Channel 17; and that others in the area would have undoubtedly done so also. He states that if Channel 8 is assigned to Tulsa, he intends to file an application for modification of his outstanding construction permit to specify operation in Tulsa on Channel 8 rather than Channel 17, and urges that his application would be entitled to comparative consideration with any modification application which may be filed by KTVX. Mr. Olson asserts that KTVX has never fulfilled its obligation to operate as a Muskogee station and that his qualifications for operating on Channel 8 at Tulsa are superior to those of KTVX; and he requests that, if channel 8 is reallocated to Tulsa, the Commission issue an appropriate order modifying his authorization for Station KSPG to specify Channel 8 instead of Channel 17, subject to the condition that any other mutually exclusive application for Channel 8 will be entitled to comparative consideration. He requests, further, that petitioner be ordered to show cause why its present authorization for Station KTVX should not be modified to specify operation on a UHF channel at Muskogee rather than on Channel 8.

8. In its replies to the comments of the opposing parties, Tulsa Broadcasting submits in support of its contention that Muskogee cannot support a VHF facility, that in its comparison of KTVX's Muskogee and Tulsa operations network revenues, national spot revenues, and revenues from advertisers in various small communities in the area were properly attributed to the Tulsa part of its operations since they result from its coverage of Tulsa. Petitioner claims as baseless the charge that it is not complying with its primary obligation of serving Muskogee as an outlet for advertisers and for public service and community service organizations. It submits that the record demonstrates that none of the KTVX promotion material submitted by the opposing parties indicates that it is engaging in any misrepresentations, even though, admittedly and deliberately, petitioner has en-

deavored to promote the use of KTVX facilities in the Tulsa market. Petitioner contends that its capital investment in equipment and studio facilities at Muskogee, the cost of maintaining service and operation from the Muskogee studios, its public service programs and the percentage of live programming originated from its Muskogee studios, all indicate that it has not attempted to avoid association with Muskogee; that the shifting of certain phases of Station KTVX's operations to its Tulsa auxiliary studios (film programming, network switching main operation offices and management and operational personnel, other than ownership) has been a gradual development to counter continuing losses from its Muskogee operation and to achieve economy and efficiency so as to enable continued operation of KTVX, and that the rate of loss of its combined Muskogee-Tulsa operation makes KTVX's continued existence uncertain unless a Tulsa identification is obtained.

9. Petitioner urges that section 307 (b) of the Communications Act is inapplicable to its proposal since there are no conflicting demands between Muskogee and Tulsa for Channel 8 and that the principles enunciated by the Commission in the recent deintermixture proceedings point to the necessity and desirability of establishing equal competitive opportunity for television stations serving substantially the same area. KTVX submits that, despite Arthur R. Olson's contention that he would have applied for Channel 8 instead of Channel 17 at Tulsa if it had been available, he provides no explanation as to why he did not apply for Channel 2 at Tulsa which was available at the time he applied for Channel 17; and that there is no basis for his contention that any appropriate modification application he might file for use of Channel 8 instead of 17 would be entitled to comparative consideration with any such application petitioner might file to move its Muskogee station to Tulsa.

10. We have carefully considered the subject proposal to shift Channel 8 from Muskogee to Tulsa and have concluded that the public interest would best be served by reassigning Channel 8 to Tulsa. In reaching this decision, we took into consideration the important fact that such action means the deletion of Muskogee's only VHF assignment and local outlet. However, in view of the relative size of Tulsa and Muskogee and their proximity—Muskogee, with a 1950 population of 32,289, is about 40 miles southeast of Tulsa, the 76th ranking market in the country with a 1950 metropolitan area population of 251,636 and a city population of 182,740—and the two existing VHF stations in Tulsa which provide service to Muskogee, we are convinced that any VHF station located at Muskogee would of necessity be required to compete in the Tulsa market with the Tulsa VHF stations for audience, revenues and programming, and in doing so, would be at a competitive disadvantage because of its identification with the smaller community of Muskogee. Under such circumstances, we do not believe that retaining Channel 8 at Muskogee would insure either the preservation of a local VHF outlet or adequate local television in Muskogee nor provide any appreciable opportunities for effective and comparable competition among a greater number of stations in this area. Channel 8 can be assigned to Tulsa in conformity with all technical requirements of the Rules, and we believe that its assignment there will more fully satisfy the mandate of section 307 (b) of the Communications Act and our television objectives[1] by insuring continued Channel 8 service to Muskogee and enhancing the opportunities for more effective utilization of Channel 8 and improvement in the competitive television situation in this area.

11. Authority for the adoption of the amendments herein is contained in sections 4 (i), 301, 303 (c), (d), (f), (r), 307 (b) and 316 (a) of the Communications Act of 1934, as amended.

12. In view of the foregoing, *It is ordered*, That effective Sept. 6, 1957, the Table of Assignments, contained in § 3.606 of the Commission's Rules and Regulations, is amended, insofar as the communities named are concerned, as follows:

City	*Channel No.*
Tulsa, Okla	2+, 6, 8—, *11—, 17+, 23
Muskogee, Okla	*45+, 66+.

13. We have also concluded that, under the circumstances presented, the public interest would be served by modifying Tulsa Broadcasting's license for Station KTVX to specify operation on Channel 8 at Tulsa instead of Muskogee. Tulsa Broadcasting now operates Station KTVX on Channel 8 at Muskogee from a transmitter site which would conform to all technical requirements for operation on Channel 8 at Tulsa; and making this frequency available to Tulsa Broadcasting as a Tulsa station would enable it to continue its present service to Muskogee without interruption. We wish to state that we have not overlooked the request of Arthur R. Olson for use of Channel 8 in Tulsa. However, effecting the change he requests in his outstanding authorization for Station KSPG—which has never been constructed—would deprive the public in the Muskogee-Tulsa area of an existing service until such time as he established a Channel 8 operation at Tulsa, and we believe that a grant of his request would not serve the paramount public interest. In taking the action herein we are not endeavoring to assist a particular broadcaster, but to take that action which has the greater likelihood of providing the public with service.

14. Accordingly, *It is further ordered*, That, effective September 6, 1957, the outstanding license of Tulsa Broadcasting Company for the operation of Station KTVX is modified to specify operation at Tulsa, Oklahoma, in lieu of Muskogee, Oklahoma, subject to the following conditions:

(a) That Tulsa Broadcasting Company advise the Commission in writing by August 15, 1957, whether it accepts the modification of its license for operation of Station KTVX at Tulsa, Oklahoma, subject to the conditions listed herein;

(b) Submission to the Commission by August 20, 1957, of all necessary information for the preparation of the modified authorization specifying Tulsa, Oklahoma; and

(c) In the event that Tulsa Broadcasting Company is unable to commence operation of Station KTVX at Tulsa, Oklahoma, in full accordance with the Commission's rules by the effective date specified above, the Commission will consider a request for continued operation of the station, in accordance with the terms and conditions of the current KTVX authorization, until operation at Tulsa, Oklahoma can be commenced.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U. S. C. 301, 303, 307)

Adopted: August 1, 1957.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6480; Filed, Aug. 7, 1957; 8:50 a. m.]

[Docket No. 12052; FCC 57-884]

[Rules Amdt. 3-83]

PART 3—RADIO BROADCAST SERVICES

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS (FLORENCE, ALA.)

In the matter of amendment of § 3.606, *Table of assignments*, Television Broadcast Stations, (Florence, Alabama).

1. The Commission has before it for consideration the proposal set out in its Notice of Proposed Rule Making released on June 10, 1957 (FCC 57-606) and published in the FEDERAL REGISTER on June 13, 1957 (22 F. R. 4165), proposing to substitute Channel 15 for Channel 41 in Florence, Alabama, in response to a petition filed by Television Muscle Shoals, Inc. The proposal is as follows:

City	Channel No.	
	Delete	Add
Florence, Ala	41	15
Gadsden, Ala	15	37—
Corinth, Miss	29—	41
Grenada, Miss	15	44

2. Comments were filed by the Corinth Broadcasting Company, Inc., licensee of Radio Station WCMA, Corinth, Mississippi and Elton H. Darby, licensee of Radio Station WVNA, Tuscumbia, Alabama.

3. In support of the requested amendments petitioner states that it is the permittee of UHF Station WOWL-TV, authorized to construct on Channel 41 in Florence, and submits that the proposal would enable it to purchase, at a substantial saving, the equipment of a

[1] See Report and Order, FCC 56-587, released June 26, 1956, in the general television allocation proceeding in Docket 11532.

complete UHF station now off the air. Petitioner urges that the proposal conforms to the Rules; that the lower channel would provide better service over a wider area; and that lesser expense would enable it to provide better programs for the public.

4. Mr. Darby states that he intends to file an application for a television station in Tuscumbia, a small community within 15 miles of Florence. He notes that in the event Channel 15 is assigned to Florence and an order to show cause is issued to Television Muscle Shoals as to why its authorization should not be modified to specify operation on Channel 15, it would leave only channel 47 [1] in the area and submits that this would give petitioner a competitive advantage. Mr. Darby urges that Channel 15 should be made available to other applicants.

5. Corinth Broadcasting opposes the instant proposals in light of the change required in Corinth from Channel 29 to Channel 41. Corinth Broadcasting submits that while it had not deemed it advisable to apply for Channel 29 previously, is now intends to filed for this assignment.

6. Petitioner seeks the substitution of Channel 15 for Channel 41 in Florence by making additional changes in three other communities. Television Muscle Shoals holds a permit for Channel 41 in Florence but wishes to purchase a Channel 15 transmitter which is available at a saving, in order that it may construct a station and serve the public in the Florence area. Our policy has been to make such changes where there is no immediate prospect of use of the lower UHF channel in the community from which the channel is deleted. In the instant case, Corinth Broadcasting opposes the substitution of Channel 41 for Channel 29 on the ground that it intends to apply for Channel 29 in Corinth.

7. We are of the view that adoption of the instant request would serve the public interest in bringing early television service to Florence. Florence is a community of 23,879 persons, while Corinth has a population of only 9,785. The proposal would not remove an assignment from Corinth but would merely substitute Channel 41 for Channel 29. Thus, Corinth Broadcasting could apply for that assignment or by rule making seek to substitute a lower channel. In the interest of expediting the early establishment of local television service in Florence, we would not be warranted in denying the instant request in order to retain Channel 29 in Corinth.

8. Nor do we believe that Channel 15 in Florence should be made available to new applicants. We are merely modifying the authorization of Muscle Shoals, substituting Channel 15 for Channel 41, in the interest of expediting early television service to the public. Under these circumstances we see no necessity for making Channel 15 available to other applicants. Petitioner, the holder of a construction permit for Channel 41, is presented with the opportunity of purchasing equipment for Channel 15 at low cost. In view of this prospect, petitioner alleges that it may now proceed with the construction and operation of the station. Accordingly, we are of the view that Channel 15 should be assigned to Florence in lieu of Channel 41 and that the outstanding authorization of Station WOWL–TV should be modified to specify operation on Channel 15.

9. Authority for the adoption of the amendment herein is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), 307 (b) and 316 of the Communications Act of 1934, as amended.

10. In view of the foregoing, *It is ordered*, That effective September 6, 1957, § 3.606 of the Commission's rules and regulations is amended, insofar as the cities named are concerned, to read as follows:

City	*Channel No.*
Florence, Ala	15
Gadsden, Ala	21+, 37–
Corinth, Miss	41
Grenada, Miss	44

11. *It is further ordered*, That effective September 6, 1957, the outstanding authorization of Television Muscle Shoals, Inc., for Station WOWL–TV in Florence, Alabama, is modified, to specify operation on Channel 15 instead of Channel 41. Television Muscle Shoals, Inc. should submit to the Commission by August 15, 1957 all information necessary for the preparation of revised engineering specifications.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U. S. C. 301, 303, 307)

Adopted: August 1, 1957.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6481; Filed, Aug. 7, 1957; 8:50 a. m.]

[Docket No. 12073; FCC 57-888]

[Rules Amdt. 3-85]

PART 3—RADIO BROADCAST SERVICES

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS (EPHRATA, WASH.)

In the matter of amendment of § 3.606 *Table of assignments*, Television Broadcast Stations (Ephrata, Washington).

1. The Commission has before it for consideration the proposal set forth in its Notice of Proposed Rule Making (FCC 57-701) released on July 2, 1957 and published in the FEDERAL REGISTER on July 6, 1957 (22 F. R. 4756) proposing to assign Channel 16 to Ephrata, Washington, in response to a petition filed by Basin TV Company. The proposal is summarized as follows:

City	Channel	
	Present	Proposed
Ephrata, Wash	43	16–, 43.
Kennewick, Wash	25	31.
Port Angeles, Wash	16–	16+ (offset only).
Richland, Wash	31	25.

2. Comments were filed by Columbia River Television Company, applicant for a television station at Kennewick, Washington, and Basin TV Company, Ephrata, Washington.

3. In support of the proposal petitioner submits that it is the permittee of Station KBAS–TV, which has been in operation on Channel 43 at Ephrata since February 15, 1957; that its coverage on Channel 43 is not equal to that of Channel 19 in Pasco, Washington; that it has been the experience of the UHF television industry that frequencies above approximately Channel 40 are less efficient than those below Channel 40; that it is expected that the use of Channel 16 will provide an improved service to the public in the Ephrata area; and that the proposal will meet all the spacing requirements of the rules.

4. Columbia River Television Company submits that it has filed an application for Channel 25 at Kennewick (BPCT–2307); that it has contracted to purchase a used transmitter for Channel 25; and that the proposal herein would require that the assignment in Kennewick be changed from Channel 25 to Channel 31. Columbia urges that this change would cause an economic hardship, and suggests that Channel 16 can be assigned to Ephrata without making any change in Kennewick by providing a channel other than 25 at Richland.

5. In reply to the Columbia River opposition Basin TV urges that there would be no difference in the coverage obtained from Channel 31 as against that from Channel 25; that no hardship would accrue to Columbia River from the change proposed in Kennewick since a transmitter for Channel 25 would require only minor modifications to convert it to Channel 31 and the cost of this change would be a small part of the total cost; and that Columbia River has not proposed any alternative plan to demonstrate that a better allocation in the area is possible.

6. After careful consideration of the comments filed in this proceeding, we are of the view that the Basin TV proposal would serve the public interest and should be adopted. Basin TV has proposed the addition of a low UHF channel in Ephrata by merely exchanging Channels 25 and 31 between Kennewick and Richland and a change in the offset requirement only of another assignment. Channels 25 and 31 are very close in frequency and there is little difference between these channels from the point of view of propagation and equipment. It does not appear therefore that the adoption of the instant proposal would work a hardship on the applicant for Channel 25 in Kennewick. On the other hand, this minor change and the change in the offset requirement for Port Angeles will permit the requested addition of a low UHF assignment in Ephrata as requested by Basin TV.

7. Authority for the adoption of the amendments adopted herein is contained in sections 4 (i), 301, 303 (c), (d), (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

8. In view of the foregoing, *It is ordered*, That effective September 6, 1957, the Table of Assignments contained in

[1] Channel 47 is assigned to Sheffield, Alabama.

§ 3.606 of the Commission's Rules and Regulations, is amended, insofar as the communities named are concerned, as follows:

City	Channel No.
Ephrata, Wash.	16—, 43
Kennewick (also see Kennewick-Richland-Pasco), Wash.	31
Port Angeles, Wash.	16+
Richland (also see Kennewick-Richland-Pasco), Wash.	25

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Adopted: August 1. 1957.

Released: August 5, 1957.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U. S. C. 301, 303, 307)

[F. R. Doc. 57-6482; Filed, Aug. 7, 1957; 8:51 a. m.]

[Docket No. 11654; FCC 57-921]

[Rules Amdt. 8-28]

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

TYPE ACCEPTANCE OF TRANSMITTERS, BANDWIDTH AND SPURIOUS EMISSIONS

In the matter of amendment of Parts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 16, and 19 of the Commission's Rules concerning type acceptance of transmitters, bandwidth and spurious emissions.

1. On March 21, 1956, the Commission adopted a Notice of Proposed Rule Making in the above entitled matter, which Notice was published in the FEDERAL REGISTER on March 28, 1956 (21 F. R. 1903). Comments were to be filed by June 1, 1956, and replies within ten days thereafter.

2. Comments were received from the American Telephone and Telegraph Company, Collins Radio Company, General Electric Company, Mackay Radio and Telegraph Company and the Radio-Electronics - Television Manufacturers Association.

3. The instant action deals only with amendment of Part 8 of the Commission's Rules to revise the specifications therein for suppression of spurious emissions in the vicinity of the carrier frequency or the authorized frequency band of emission.

4. Comments received from several persons referred to paragraph 5 of the Notice, which paragraph was concerned with the possible revision of specifications in Commission Rules for suppression of spurious emissions within about 2 percent of the carrier frequency but removed from the carrier frequency by more than 50 per cent of the authorized emission bandwidth. These comments, in essence, argued that a revision of spurious emission limitations in a band extending out to 2 percent of the carrier frequency did not seem appropriate when considered for a wide range of frequencies and for certain emissions. As a matter of fact, these figures were mentioned in the Notice for the purpose of limiting the scope of the proceeding and were not intended to propose specifically that rule revisions be made concerning spurious emissions occurring within these exact limits.

5. Collins Radio Company stated, "From a practical standpoint, it is very difficult to measure spurious outputs within 1 per cent of the carrier frequency that are 50 db or more below the carrier level * * * Therefore, a good practical rule might govern transmitter outputs in a band extending from 100 per cent of the authorized bandwidth to either 30 kc or 1 per cent of the carrier frequency, whichever is larger, from the carrier frequency. The power at any frequency permitted in a band from 50 per cent to 100 per cent of the authorized bandwidth away from the carrier frequency would be required to be 25 db below the level of the unmodulated carrier. From 100 per cent of the authorized bandwidth out to 30 kc or 1 per cent of the carrier frequency—whichever is larger—the output at any frequency would be required to be down 30 db from the unmodulated carrier level."

6. The General Electric Company suggested that prior to detailed study of the problems of various services by the (RETMA) committees, the Commission give consideration to setting up standards based on an "interference caused" philosophy when prescribing bandwidth and close-in spurious emission suppression requirements. Under this basic change of philosophy according to the comment, the close-in emission from various types of transmitters would be probed with a receiving device employing a bandwidth consistent with that normally used in the same neighboring service. Similarly, the time interval would be consistent with that which could cause disturbing interference. The Commission is of the opinion that an attempt to regulate spurious emissions outside the authorized emission bandwidth by defining limits derived from interference caused considerations would, of necessity, give way to regulation limiting spurious emissions to the lowest practicable values consistent with the state of the art, because of the continually increasing congestion in many of the usable portions of the radio frequency spectrum.

7. Mackay Radio and Telegraph Company commented, in essence, that Part 8 of the Commission's Rules should be amended to require any emission appearing at any frequency removed from the carrier frequency by more than 250 per cent of the authorized emission bandwidth to be attenuated below the power of the carrier by the number of decibels not less than that determined by the formula now set forth in § 8.136.

8. Radio Electronics-Television Manufacturers Association (RETMA) and the American Telephone and Telegraph Company suggested, in effect, that in § 2.524, the center of the authorized frequency band of emission, rather than the carrier frequency should be designated as the frequency of reference when measurements are made pursuant to that section. This suggestion is being applied to Part 8 as hereby amended.

9. Section 8.136, as amended below has been modified to require attenuation of spurious omissions below the power of the carrier as follows:

(1) Those occurring on frequencies between 50 and 100 per cent of the authorized emission bandwith removed from the center of the authorized frequency-band of emission: 25 decibels (this requirement is herein extended to apply to certain transmitters operating on frequency assignments below 30 Mc).

(2) Those occurring on frequencies between 100 and 250 per cent of the authorized emission bandwidth removed from the center of the authorized frequency-band of emission: 35 decibels.

(3) Those occurring on frequencies removed from the center of the authorized frequency-band of emission by more than 250 per cent of the authorized emission bandwidth: by $40+10 \log_{10}$ (P) decibels where P is the maximum authorized transmitter power in watts.

10. The requirement of (1) above, extended to apply to transmitters operating below 30 Mc does not represent a material change for such category of transmitters, inasmuch as the definition "Bandwidth Occupied by an Emission" (58 Atlantic City Radio Regulations), which is reflected in Part 8 of the Commission Rules, has been construed heretofore to require approximately 26 db attenuation of emissions removed from the carrier frequency by more than 50 per cent of the authorized emission-bandwidth, for the purposes of Part 8.

11. Information available to the Commission indicates that (2) above is a reasonable exception, in view of the problems of suppression of distortion products occurring in this region.

12. The requirement described in (3) above, has been adopted after examination of a considerable amount of data pertinent to this subject, including comments by the Mackay Radio and Telegraph Company.

13. Information received by the Commission in connection with matters pertaining to type acceptance of equipment and to this docket indicates that transmitters meeting the requirements of Section 8.136, as herein amended, can be manufactured without unreasonable difficulty. At the same time, it is believed that these specifications take advantage of present techniques in spurious emission suppression to the highest practicable degree consistent with the attendant considerations of cost and technical complexity.

14. For purposes of clarification certain editorial changes have also been made to § 8.136.

15. In view of the foregoing, *It is ordered*, under the authority contained in sections 4 (i), 303 (c), (e), (f) and (r) of the Communiactions Act of 1934, as amended, That part 8 of the Commission's Rules is amended, effective September 10, 1957, as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: August 1, 1957.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Part 8 is amended as follows:

1. Section 8.136: Delete the present section in its entirety and insert an amended section as follows:

§ 8.136 *Spurious emission limitations.* (a) Spurious emissions originating in transmitters authorized under this part are subject to the limitations set forth in paragraph (b) of this section, which limitations shall be applicable in accordance with paragraphs (c), (d) and (e) of this section.

(b) The power of any spurious emission shall be reduced below the power of the carrier in accordance with the following schedule:

(1) On any frequency removed from the center of the auhtorized frequency band of emission by between 50 per cent and 100 per cent of the authorized emission bandwidth: at least 25 decibels;

(2) On any frequency removed from the center of the authorized frequency band of emission by between 100 per cent and 250 per cent of the authorized emission bandwidth: at least 35 decibels;

(3) On any frequency removed from the center of the authorized frequency band of emission by more than 250 per cent of the authorized emission bandwidth: by at least the number of decibels equal to $40+10 \log_{10} P$, where P is the maximum "authorized transmitter power" in watts as such power is specifically defined in § 8.7 (ii) without applying the power tolerance prescribed in § 8.110 (a).

(c) Except as outlined in paragraph (d) of this section, the requirements of paragraph (b) of this section shall be applicable as follows:

(1) To any radio transmitter for which type acceptance is requested.

(2) To radio transmitters when operating on any frequency assignment between 30 Mc and 500 Mc.

(3) After June 1, 1958, to any radio transmitter when operating on any frequency below 30 Mc.

(d) The requirements of paragraph (b) of this section shall not apply to:

(1) Lifeboat transmitters;

(2) Transmitters authorized in developmental station licenses;

(3) Radiotelegraph transmitters licensed for operation on any frequency assignment below 30 Mc prior to June 1, 1958, which are authorized in a station license issued to the same licensee or for a station on board the same vessel;

(4) Other radio transmitters licensed for operation on any frequency assignment below 30 Mc prior to June 1, 1958, which are authorized in a station license issued to the same licensee or for a station on board the same vessel until they are authorized in a new or renewed station license issued in response to an application filed after June 1, 1963.

(e) When an emission outside of the authorized emission bandwidth causes harmful interference to an authorized service the Commission may require more attenuation of such emission than specified in paragraph (b) of this section.

[F. R. Doc. 57-6483; Filed, Aug. 7, 1957; 8:51 a. m.]

[Docket No. 12027; FCC 57-933]

[Rules Amdts. 16-17 and 19-3]

PART 16—LAND TRANSPORTATION RADIO SERVICES

PART 19—CITIZENS RADIO SERVICE

PERMISSIBLE SCOPE OF COMMUNICATIONS DURING CIVIL DEFENSE TESTS, DRILLS, OR ACTUAL EMERGENCIES

In the matter of amendment of Parts 16 and 19, Rules governing the Land Transportation and Citizens Radio Services, respectively, to clarify the permissible scope of communications during civil defense tests, drills, or actual emergencies, and to prescribe procedures relating thereto.

1. On May 16, 1957, the Commission released a Notice of Proposed Rule Making which was published in the FEDERAL REGISTER of May 22, 1957 (22 F. R. 3599) in accordance with section 4 (a) of the Administrative Procedure Act, proposing to amend Parts 16 and 19 of its rules, which govern the Land Transportation and Citizens Radio Services, respectively, to clarify the scope of communications which may be engaged in by stations in these services during civil defense tests, drills, or actual emergencies and to prescribe procedures relating to such communications.

2. The period in which interested persons were afforded an opportunity to submit comments thereto has expired. The only comments received on the proposed amendments were submitted by the Federal Civil Defense Administration. While the FCDA supports the proposed rule making, it suggests certain changes primarily relating to the notices to be sent to the Engineer in Charge of the Radio District and the Federal Communications Commission in Washington when the taxicab radio stations are diverted from the normal operation to that of providing communication facilities for civil defense agencies.

3. The first suggestion submitted by the FCDA proposes to modify the proposed § 16.405 to specifically provide that, "in the event of a preplanned drill or test which would be scheduled for periodic recurrences at certain intervals that a single prior notice to the Commission of the contemplated tests would satisfy the notice requirements." The FCDA suggests inserting a new paragraph to § 16.404 (b) to clarify the notification procedure for recurring tests or drills. The Commission believes that the proposed revision has merit and accordingly adopts the language suggested by the FCDA. It is further modifying the proposed § 19.67 to make similar provisions for the Citizens Radio Service.

4. In addition, the FCDA suggests that § 19.67 relating to the use of Citizens Radio stations be modified to provide that notification of the use of a Citizens station would not be required in the event its participation in the civil defense communications was confined to transmissions which would be otherwise authorized by Part 19. The FCDA suggests that § 19.67 (4) be modified to include the following italicized language: "As soon as possible after the beginning of such use *which is not otherwise authorized in this part*, the licensee shall send notice to the Commission in Washington, D. C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications being transmitted and the duration of the special use of the station. In addition, the Engineer in Charge shall be notified as soon as possible of any change in the nature of, or termination of such use." Section 19.59 which relates to the permissible communications, provides that Citizens Radio stations may not be used for any purpose contrary to Federal, state, or local law; or to carry communications for hire; or to carry program material of any kind either directly or indirectly for use in connection with radio broadcasting; or for direct transmission to the public through public address systems or by any other means. It is believed that the language proposed by the FCDA might be interpreted to permit Citizens Radio stations to engage in any of the above upon notice to the Commission. Since it is understood that the changes proposed by the FCDA relate primarily to a clarification of the notification procedure and the points of communications and not to an enlargement of the scope of service permitted Citizens Radio stations, the Commission has not adopted the second suggestion of the FCDA in the form in which it was proposed. However, since it was not intended in the original proposal to preclude intercommunications between Citizens Radio stations and stations in other services while such stations were engaged in civil defense activities, and in order to clarify the proposed rules in this respect, the Commission is also amending § 19.59 (a) at this time to read as follows:

(a) Each station in the Citizens Radio Service is authorized to communicate with other stations in this service. Communications with stations licensed under other parts of the Commission's rules or with the United States Government or foreign stations is prohibited except for communications relating to civil defense in accordance with the provisions of § 19.67.

5. These amendments to Parts 16 and 19 of the Commission's rules as further modified and clarified by this Report and Order are promulgated under the authority of sections 4 (i) and 303 of the Communications Act of 1934, as amended.

6. Accordingly, *It is ordered*, That effective September 10, 1957, Part 16 and Part 19 of the Commission's rules are amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: August 1, 1957.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

A. Amendment of Part 16, rules governing the land transportation radio services.

1. Amend § 16.151 to add a new paragraph (g) to read as follows:

(g) A licensee of a station authorized under this part may use the licensed radio facilities for the transmission of messages relating to civil defense activities in connection with official tests or drills conducted by, or actual emergencies proclaimed by, the civil defense agency having jurisdiction over the area in which the station is located: *Provided,* That:

(1) The operation of the radio station shall be on a voluntary basis.

(2) The operation of the station shall not conflict with CONELRAD requirements, and

(3) The messages transmitted relate to the activity or activities which formed the basis of the licensee's eligibility in the radio service in which authorized except as otherwise provided in this part.

2. Add a new § 16.405 to read as follows:

§ 16.405 *Civil defense communications.* In addition to communications permitted under the provisions of § 16.151 (g) stations in the Taxicab Radio Service may be used for the transmission of the following: (a) Messages relating to the dispatch of taxicabs which are temporarily diverted from their normal public passenger transportation activities to the performance of civil defense transportation functions.

(b) Messages relating to the activities of the civil defense agency in those cases where other communications facilities including the Radio Amateur Civil Emergency Service Disaster or Domestic Public Services are inoperative or inadequate, either in fact or during a simulated civil defense emergency: *Provided,* That:

(1) As soon as possible after the beginning of such use, the licensee shall send notice to the Commission in Washington, D. C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications being transmitted and the duration of the special use of the station. In addition, the Engineer in Charge shall be notified as soon as possible of any change in the nature of or termination of such use.

(2) In the event such use is to be a series of preplanned tests or drills of the same or similar nature which are scheduled in advance for specific times or at certain intervals of time, the licensee may send a single notice to the Commission in Washington, D. C., and to the Engineer of the Radio District in which the station is located, stating the nature of the communications to be transmitted, the duration of each such test, and the times scheduled for such use. Notice shall likewise be given in the event of any change in the nature of or termination of any such series of tests.

(3) The Commission may, at any time, order the discontinuance of such special use of the authorized facilities.

B. Amendment of Part 19, Rules governing the citizens radio service.

1. Amend § 19.59 (a) to read as follows:

(a) Each station in the citizens radio service is authorized to communicate with other stations in this service. Communications with stations licensed under other parts of the Commission's rules or with United States Government or foreign stations is prohibited, except for communications relating to civil defense in accordance with the provisions of § 19.67.

2. Add a new § 19.67 to read as follows:

§ 19.67 *Civil defense communications.* A licensee of a station authorized under this part may use the licensed radio facilities for the transmission of messages relating to civil defense activities in connection with official tests or drills conducted by, or actual emergencies proclaimed by, the civil defense agency having jurisdiction over the area in which the station is located: *Provided,* That:

(a) The operation of the radio station shall be on a voluntary basis.

(b) The operation of the station shall not conflict with CONELRAD requirements.

(c) Such communications are conducted under the direction of civil defense authorities.

(d) As soon as possible after the beginning of such use, the licensee shall send notice to the Commission in Washington D. C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications being transmitted and the duration of the special use of the station. In addition, the Engineer in Charge shall be notified as soon as possible of any change in the nature of or termination of such use.

(e) In the event such use is to be a series of preplanned tests or drills of the same or similar nature which are scheduled in advance for specific times or at certain intervals of time, the licensee may send a single notice to the Commission in Washington, D. C., and to the Engineer of the Radio District in which the station is located, stating the nature of the communications to be transmitted, the duration of each such test, and the times scheduled for such use. Notice shall likewise be given in the event of any change in the nature of or termination of any such series of tests.

(f) The Commission may, at any time, order the discontinuance of such special use of the authorized facilities.

[F. R. Doc. 57-6484; Filed, Aug. 7, 1957; 8:51 a. m.]

[Docket No. 12043; FCC 57-922]

[Rules Amdt. 18-15]

PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL SERVICE

ULTRASONIC EQUIPMENT

In the matter of amendment of § 18.71 (b) of the Commission's Rules and Regulations with respect to Ultrasonic Equipment.

1. On May 29, 1957, the Commission issued a Notice of Proposed Rule Making to amend § 18.17 (b) of the rules concerning ultrasonic equipment. It was proposed that ultrasonic measurement equipment that operates over a continuous band of frequencies be permitted to use the frequency bands 490–510 kc, 2170–2194 kc and 8354–8374 kc.

2. The rule making was issued in response to a petition from the Ultrasonic Manufacturers' Association which pointed out that the usefulness of ultrasonic measurement equipment was impaired without the availability of the above mentioned operating frequencies. The petition states that one of the most important functions of certain ultrasonic equipment is the measurement of metal wall thickness from one side of the wall. This is accomplished by measuring the resonant frequency, since for a particular material each thickness has a corresponding resonant frequency. If all thicknesses must be measured, a continuous spectrum of frequencies, without gaps, must be available for use in the test instrument. Ultrasonic test instruments using the resonance method are used to make thickness measurements and to detect laminar flaws on complex parts such as missile, airframe and aircraft engine components. With the exception of some special purpose designs, it is not possible to design satisfactory test equipment unless a continuous frequency range can be used.

3. No comments have been received objecting to the Commission's amendment as proposed. The Commission believes that the public interest will be served by adopting the amendment as proposed and set forth below. Authority for this action is contained in section 4 (i), 301 and 303 (f) of the Communications Act of 1934, as amended (47 U. S. C. 154 (i), 301, and 303 (f)).

4. In view of the foregoing considerations, *It is ordered,* That effective September 16, 1957, Part 18 of the Commission's Rules Governing Industrial, Scientific, and Medical Service is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 48 Stat. 1081, 1082; 47 U. S. C. 301, 303)

Adopted: August 1, 1957.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Section 18.71 (b) of the Commission's rules is amended to read as follows:

(b) Except for ultrasonic measurement equipment that operates over a continuous band of frequencies, the fundamental frequency of operation shall fall outside the frequency bands 490–510 kc, 2170–2194 kc, and 8354–8374 kc.

[F. R. Doc. 57-6485; Filed, Aug. 7, 1957; 8:52 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 27]

CANNED FRUIT AND CANNED FRUIT JUICES; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

NOTICE EXTENDING TIME IN WHICH TO FILE VIEWS AND COMMENTS ON PROPOSALS TO ESTABLISH DEFINITIONS AND STANDARDS OF IDENTITY FOR CERTAIN TYPES OF FROZEN CONCENTRATES FOR LEMONADE

A request has been received for extension of the time for filing views and comments upon the proposal to establish definitions and standards of identity for certain types of frozen concentrates for lemonade which was published in the FEDERAL REGISTER on June 29, 1957 (22 F. R. 4620).

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U. S. C. 341, 371) and delegated to him by the Secretary (22 F. R. 1045), the Commissioner of Food and Drugs hereby extends until August 30, 1957, the time for filing views and comments upon the proposals to adopt definitions and standards of identity for certain types of frozen concentrates for lemonade.

Dated: August 2, 1957.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 57-6457; Filed, Aug. 7, 1957; 8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 71–78]

[Notice 32; Docket No. 3666]

TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

NOTICE OF PROPOSED RULE MAKING

JULY 19, 1957.

The Commission is in receipt of applications for early amendment of the above-entitled regulations insofar as they apply to shippers in the preparation of articles for transportation, and to all carriers by rail and highway. The proposed amendments and the reasons therefor are set forth below.

Application for these amendments ordinarily would be considered at our next hearing in this docket. It appears, however, that the proposed amendments have been the subject of exchanges and study by interested parties, in which substantial agreement has been reached. In view thereof no oral hearing is contemplated at this time.

Any party desiring to make representations in favor of or against the proposed amendments may do so through the submision of written data, views, or arguments. The original and five copies of such submission may be filed with the Commission on or before August 21, 1957. The proposed amendments are subject to change or changes that may be made as a result of such submissions.

Notice to the general public will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection, and by filing a copy of the notice with the Director, Division of the Federal Register.

(62 Stat. 738, 18 U. S. C. 831–835; 49 Stat. 546, 52 Stat. 1237, 54 Stat. 921, 49 U. S. C. 304)

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY,
Secretary.

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71–78 OF THIS CHAPTER

Amend § 72.5 Commodity List (15 F. R. 8265, 8268, Dec. 2, 1950) (17 F. R. 1558, Feb. 20, 1952) as follows:

§ 72.5 *List of explosives and other dangerous articles.* (a) * * *

Article	Classed as	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(Change)				
*Cement, liquid, n. o. s. *Smokeless powder for cannon or small arms.* See Propellant explosives, class A explosives or High explosives.	F. L.	73.118, 73.119, 73.132	Red	15 gallons.
Vinyl chloride, inhibited	F. G.	73.302, 73.308, 73.314, 73.315	Red gas	300 pounds.
(Add)				
Carbon dioxide gas, liquefied ("mining device"). *Liquefied carbon dioxide gas ("mining device").* See Carbon dioxide gas, liquefied ("mining device").	Nonf. G.	73.308 (a), Note 5	Green	6 pounds.

PART 73—SHIPPERS

SUBPART A—PREPARATION OF ARTICLES FOR TRANSPORTATION BY CARRIERS BY RAIL FREIGHT, RAIL EXPRESS, HIGHWAY, OR WATER

In § 73.31 amend paragraph (a) table; cancel note 11 to paragraph (a) table and redesignate note 12 to paragraph (a) table as note 11; amend paragraph (k) (22 F. R. 3661, May 24, 1957) (22 F. R. 2224, April 4, 1957) (15 F. R. 8279, Dec. 2, 1950) to read as follows:

§ 73.31 *Qualification, maintenance, and use of tank cars.* (a) * * *

Where these regulations call for specification Nos.—	These specification containers may also be used subject to the provisions of the following notes—
103[4 5 9] and 103-W.[4 5 9]	ARA-II[1 4 5], III[4 5 9] and IV.[5 9]
103A[4] and 103A-W[4]	ARA-II[3 4] and III.[3 4]
103B[4] and 103B-W[4]	ARA-II[4] and III,[4] rubber lined.
103C-W[11]	103C.[6 11]
103D-W, 103E-W, 103A-N-W.	(See Note 10.)
104[4 9] and 104-W[4 9]	ARA-IV.[4 9]
105A100 and 105A100-W.	104A[7] and 104A-W.[7]
105A100-AL-W	104A-AL-W.[7]
105A300-W	ARA-V,[3] ICC-105[2] and 105A300.[3]
105A400-W	105A400.
105A500-W	105A500.
105A600-W	105A600.
106A500 and 106A500-X.	ICC-27 tanks mounted on a car and classified as multi-unit tank prior to Oct. 1, 1930.[8]
106A800 and 106A800-X.	None.
106A800NCL	None.
107A****	None.

* * * * *

[11] 103C, 103C-W and 103A-AL-W (§§ 78.283 and 78.292 of this chapter) tank cars built prior to August 31, 1956 equipped with a safety valve having a pressure setting of 45 psi. may be used. Cars equipped with 45 psi safety valves may be continued in service but these valves may be reset to 35 psi. by changing the spring to a design suitable for the decreased pressure setting.

* * * * *

(k) Tank cars equipped with interior heater coils, except when coils are rendered inoperative by blocking off the inlet and outlet, must be loaded with heater coil inlet and outlet caps off during entire time tanks are being loaded and show no leakage with caps off.

* * * * *

SUBPART B—EXPLOSIVES; DEFINITIONS AND PREPARATION

In § 73.101 amend paragraph (a) (15 F. R. 8296, Dec. 2, 1950) to read as follows:

§ 73.101 *Small-arms ammunition.* (a) Small-arms ammunition must be packed in pasteboard or other inside boxes or must be in metal clips packed in securely closed strong wooden boxes, fiberboard boxes, or metal containers. When in clips, the clips must be so designed as to protect the primers from accidental injury.

* * * * *

SUBPART C—FLAMMABLE LIQUIDS; DEFINITION AND PREPARATION

In § 73.118 amend paragraph (c) (25) (20 F. R. 8100, Oct. 28, 1955) to read as follows:

§ 73.118 *Exemptions for flammable liquids.* * * *

(c) * * *

(25) Dimethylhydrazine, unsymmetrical.

* * * * *

2. In § 73.132 amend the heading and introductory text of paragraph (a) (20 F. R. 8101, Oct. 28, 1955) to read as follows:

§ 73.132 *Cement, liquid, n. o. s., container cement, linoleum cement, pyroxy-*

lin cement, rubber cement, tile cement, wallboard cement, and coating solution.

(a) Cement, liquid, n. o. s., container cement, linoleum cement, pyroxylin cement, rubber cement, tile cement, wallboard cement, and coating solution must be packed in specification containers as follows:

* * * * *

SUBPART D—FLAMMABLE SOLIDS AND OXIDIZING MATERIALS; DEFINITION AND PREPARATION

1. In § 73.153 amend paragraph (b) (21 F. R. 364, Jan. 19, 1956) to read as follows:

§ 73.153 *Exemptions for flammable solids and oxidizing materials.* * * *

(b) Liquid or solid organic peroxides (see § 73.244 (a)), except acetyl benzoyl peroxide, solid, and benzoyl peroxide, in strong outside containers having not over 1 pint or 1 pound net weight of the material in any one such package, having inside containers securely packed and cushioned with incombustible cushioning are, unless otherwise provided, exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77, except § 77.817 of this chapter, and Part 197 of the I. C. C. Motor Carrier Safety Regulations.

* * * * *

2. In § 73.157 add paragraph (a) (3) (15 F. R. 8304, Dec. 2, 1950) to read as follows:

§ 73.157 *Benzoyl peroxide, chlorobenzoyl peroxide (para), lauroyl peroxide, or succinic acid peroxide, wet.* (a) * * *

(3) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes, with inside fiber containers securely closed by taping or gluing, or inside securely closed paper bags lined with 0.002 inch thick polyethylene, not over 1 pound capacity each. Except for lauroyl peroxide, wet, each inside container must be surrounded by asbestos or fire-resistant cushioning material which will protect the contents with equal efficiency. Gross weight in spec. 12B65 (§ 78.205 of this chapter) boxes may be more than 65 but not more than 80 pounds provided net weight of contents does not exceed 50 pounds.

3. In § 73.234 add paragraph (a) (4) (19 F. R. 1278, March 6, 1954) to read as follows:

§ 73.234 *Sodium nitrite.* (a) * * *

(4) Spec. 37A (§ 78.131 of this chapter). Metal drums constructed of steel having minimum thickness of 24 gauge. Bolted or lever-lock closure rings authorized provided drums withstand test prescribed by § 78.131–11 of this chapter. Authorized gross weight not over 425 pounds.

SUBPART E—ACIDS AND OTHER CORROSIVE LIQUIDS; DEFINITION AND PREPARATION

1. In § 73.245 add paragraph (a) (18) (15 F. R. 8313, Dec. 2, 1950) to read as follows:

§ 73.245 *Acids or other corrosive liquids not specifically provided for.* (a) * * *

(18) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 1 gallon capacity each. Not more than 4 inside containers exceeding 5 pints capacity each shall be packed in the outside container.

2. In § 73.247 add Note 1 to paragraph (a) (6) (22 F. R. 2226, Apr. 4, 1957) to read as follows:

§ 73.247 *Acetyl chloride, antimony pentachloride, benzoyl chloride, benzyl chloride, chromyl chloride, pyro sulfuryl chloride, silicon chloride, sulfur chloride (mono and di), sulfuryl chloride, thionyl chloride, tin tetrachloride (anhydrous), and titanium tetrachloride.* (a) * * *

(6) * * *

NOTE 1: Stabilization of benzyl chloride is not required when loaded in tanks which are made from 99% pure nickel and otherwise comply with all the requirements of Specification 103A–W.

* * * * *

3. In § 73.252 add paragraph (a) (4) (15 F. R. 8315, Dec. 2, 1950) to read as follows:

§ 73.252 *Bromine.* (a) * * *

(4) Spec. MC 310 (§ 78.330 of this chapter). Tank motor vehicles. The tank must have a steel shell thickness of $\frac{3}{8}$" minimum and must be lined with lead of at least $\frac{3}{8}$" thickness. The water weight capacity of the tank must not be more than 5100 pounds and the maximum quantity of liquid bromine loaded into the tank must not be more than 15,000 pounds or 300 percent of the water weight capacity of the tank, whichever quantity is the lesser. In no case shall the quantity loaded be less than 98 percent of the quantity the tank is authorized to carry.

* * * * *

4. In § 73.257 add paragraph (a) (11) (15 F. R. 8315, Dec. 2, 1950) to read as follows:

§ 73.257 *Electrolyte (acid) or corrosive battery fluid.* (a) * * *

(11) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 1 gallon capacity each. Not more than 4 inside containers exceeding 5 pints capacity each shall be packed in the outside container.

* * * * *

5. In § 73.258 add paragraphs (a) (2) and (3) (15 F. R. 8315, Dec. 2, 1950) to read as follows:

§ 73.258 *Electrolyte, acid, or alkaline corrosive battery fluid, packed with storage batteries.* (a) * * *

(2) Electrolyte, acid, or alkaline corrosive battery fluid included with storage batteries and filling kits may be packed in strong plywood or wooden boxes when shipments are made by, for, or to the Departments of the Army, Navy, or Air Force of the United States Government in outside containers of their specifications provided the electrolyte, acid, or alkaline corrosive battery fluid is packed in polyethylene bottles not over 32-ounce capacity each and not more than 20 bottles securely separated from storage batteries and kits may be shipped in one outside package.

(3) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with not more than 12 inside containers of polyethylene or oher material resistant to the lading, not over 64-ounce capacity each. Polyethylene containers that are not rigid or semi-rigid in nature must be contained in other strong inside containers; minimum thickness of polyethylene or other plastic material shall be not less than 0.003 inch for any film sheet for multi-wall containers or not less than 0.006 inch for single-wall containers. Inside containers must be adequately separated from the storage battery. Authorized gross weight not over 65 pounds. (See § 78.205–33 of this chapter).

6. In § 73.260 amend paragraphs (c) (1) and (2) (21 F. R. 672, Jan. 31, 1956) (17 F. R. 4294, May 10, 1952) to read as follows:

§ 73.260 *Electric storage batteries, wet.* * * *

(c) * * *

(1) Slip cover or fiberboard box must fit snugly and provide inside top clearance of at least ½ inch above battery terminals and filler caps with reinforcement in place. Assembled for shipment, the bottom edges of the slip cover may extend to the base of the battery but must not expose more than 1 inch thereof.

(2) Top of slip cover or fiberboard box must have interior reinforcement (insert or saddle) of fiberboard, wood, or other material of equal strength and rigidity so formed that any superimposed weight will bear only and directly downward on the top edges of the battery case or intercell connectors (straps); or be protected by a scored one piece cover-liner of 200-pound test (Mullen or Cady) double faced corrugated fiberboard extending from the base of the battery on one side, across the top of the battery and to the base of the battery on the opposite side. When top of slip cover or fiberboard box consists of only one thickness of material, reinforcement must have a plane surface of same interior dimensions and thickness. Reinforcement must be of a height to provide minimum clearance required above and must be constructed to remain securely in place or be fastened to slip cover or fiberboard box.

* * * * *

7. In § 73.262 add paragraph (a) (7) (15 F. R. 8316, Dec. 2, 1950) to read as follows:

§ 73.262 *Hydrobromic acid.* (a) * * *

(7) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint glass bottles may be packed in one outside container.

* * * * *

8. In § 73.263 add paragraph (a) (16) (21 F. R. 9357, Nov. 30, 1956) to read as follows:

§ 73.263 *Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited, sodium chlorite solution, and*

cleaning compounds, liquid, containing hydrochloric (muriatic) acid. (a) * * *

(16) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint glass bottles may be packed in one outside container.

* * * * *

9. In § 73.272 add paragraph (c) (6) (15 F. R. 8321, Dec. 2, 1950) to read as follows:

§ 73.272 *Sulfuric acid.* * * *

(c) * * *

(6) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint glass bottles may be packed in one outside container.

* * * * *

10. In § 73.289 add paragraph (a) (12) (16 F. R. 11779, Nov. 21, 1951) to read as follows:

§ 73.289 *Formic acid and formic acid solutions.* (a) * * *

(12) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint glass bottles may be packed in one outside container.

SUBPART F—COMPRESSED GASES; DEFINITION AND PREPARATION

1. § 73.308 amend Note 5 to paragraph (a) (15 F. R. 8326, Dec. 2, 1950) to read as follows:

§ 73.308 *Compressed gases in cylinders.* (a) * * *

NOTE 5: Mining devices consisting of a cylinder containig carbon dioxide with a heating element are authorized for shipment under the following conditions: Cylinders shall be of steel, have a calculated bursting pressure of at least 39,000 pounds per square inch, be fitted with a frangible disc that will operate at not over 57 percent of that pressure, be able to withstand a drop of 10 feet so as to strike crosswise on a steel rail while under internal pressure of at least 3,000 pounds per square inch, and be charged with not over 6 pounds of carbon dioxide gas at a filling density of not over 85 percent. (See Note 12 of this section); the cylinders are exempted from specification requirements other than the foregoing; the device must be shipped in strong boxes or must be wrapped in heavy burlap and bound by 12 gauge wire with the wire completely covered by friction tape. Wrapping must be applied so as not to interfere with the functioning of the frangible disc safety device. Shipments must be described as "liquefied carbon dioxide gas (mining device)" and must be marked, labeled, and certified as prescribed for liquefied carbon dioxide.

* * * * *

2. In § 73.312 amend paragraph (a) (1) (19 F. R. 6269, Sept. 29, 1954) to read as follows:

§ 73.312 *Liquefied petroleum gas.* (a) * * *

(1) Spec. 3,[1] 3A, 3AA, 3B, 3E, 4, 4A, 4B, 4BA, 4B240X[1] (see appendix A to Subpart C of Part 78 of this chapter), 4B240FLW, 4B240ET, 4E, or 9, 25,[1] 26,[1] 38,[1] or 41 (§§ 78.36, 78.37, 78.38, 78.42, 78.48, 78.49, 78.50, 78.51, 78.54, 78.55, 78.68, 78.63 or 78.67 of this chapter). Cylinders authorized under § 73.34 (a) to (e) may be used.

(No change in Note 1.)

* * * * *

3. In § 73.314 amend paragraph (a) table; amend Note 2; amend the introductory text of paragraphs (a) and (b) in Note 3; add paragraph (c) and (d) to Note 3; add Note 21; amend paragraph (b); amend paragraph (c) (22 F. R. 2227, 2228, April 4, 1957) (21 F. R. 4565, June 26, 1956) (15 F. R. 8328, 8329, Dec. 2, 1950) to read as follows:

§ 73.314 *Compressed gases in tank cars.* (a) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required type of tank car, Note 2
(*Change*)	*Percent*	
Anhydrous ammonia	50	ICC-106A500, 106A500X, Note 12.
	57	ICC-105A300-W.
	57	ICC-112A400-W, Note 21.
	58.8	ICC-112A400-W, Note 21.
Crude nitrogen fertilizer solution	Note 6	ICC-106A500, 106A500X.
Fertilizer ammoniating solution containing free ammonia.	Note 6	ICC-105A300-W, 109A300-W, Note 5. ICC-106A500, 106A500X. ICC-105A300-W, 109A300-W, Note 5.
Liquefied petroleum gas (pressure not exceeding 225 pounds per square inch at 105° F.).	Note 3	ICC-105A300-W, 112A400-W, Notes 5 and 9.
Nitrogen fertilizer solution	Note 6	ICC-106A500, 106A500X. ICC - 105A300 - W, 109A300 - W, ICC - 109A300AL-W, Note 5.

* * * * * * * * *

NOTE 2: Unless otherwise specifically provided, when class 105A-W, 015A-AL-W, 106A500, 106A500X, or 109A-AL-W tank cars are prescribed, the same class tank cars having higher marked test pressures than those prescribed may also be used.

NOTE 3: (a) Maximum permitted filling density in lagged (insulated) single-unit tank cars transporting liquefied petroleum gas or butadiene of specific gravity shown, taken at 60 degrees Fahrenheit.

(No change in table.)

* * * * *

NOTE 3: (b) For shipments made in lagged (insulated) single-unit tank cars during the months of November to March, inclusive, the following filling densities may be used in lieu of those specified in the table in Note 3 (a). When these filling densities are used, tank cars must be shipped directly to consumers for unloading. Storage in transit is not permitted.

(No change in table.)

* * * * *

NOTE 3: (c) Maximum permitted filling density in unlagged (uninsulated) single-unit tank cars transporting liquefied petroleum gas of specific gravity shown, taken at 60 degrees Fahrenheit.

Specific gravity	Filling density	Specific gravity	Filling density
0.500	44.88	0.550	50.88
0.501	45.00	0.551	51.00
0.502	45.13	0.552	51.13
0.503	45.25	0.553	51.25
0.504	45.38	0.554	51.38
0.505	45.50	0.555	51.50
0.506	45.60	0.556	51.60
0.507	45.70	0.557	51.70
0.508	45.80	0.558	51.80
0.509	45.90	0.559	51.90
0.510	46.00	0.560	52.00
0.511	46.13	0.561	52.13
0.512	46.25	0.562	52.25
0.513	46.38	0.563	52.38
0.514	46.50	0.564	52.50
0.515	46.63	0.565	52.63
0.516	46.75	0.566	52.75
0.517	46.88	0.567	52.88
0.518	47.00	0.568	53.00
0.519	47.13	0.569	53.10
0.520	47.25	0.570	53.20
0.521	47.38	0.571	53.30
0.522	47.50	0.572	53.40
0.523	47.63	0.573	53.50
0.524	47.75	0.574	53.63
0.525	47.88	0.575	53.75
0.526	48.00	0.576	53.88
0.527	48.13	0.577	54.00
0.528	48.25	0.578	54.10
0.529	48.38	0.579	54.20
0.530	48.50	0.580	54.30
0.531	48.63	0.581	54.40
0.532	48.75	0.582	54.50
0.533	48.88	0.583	54.63
0.534	49.00	0.584	54.75
0.535	49.13	0.585	54.88
0.536	49.25	0.586	55.00
0.537	49.38	0.587	55.13
0.538	49.50	0.588	55.25
0.539	49.60	0.589	55.38
0.540	49.70	0.590	55.50
0.541	49.80	0.591	55.60
0.542	49.90	0.592	55.70
0.543	50.00	0.593	55.80
0.544	50.13	0.594	55.90
0.545	50.25	0.595	56.00
0.546	50.38	0.596	56.13
0.547	50.50	0.597	56.25
0.548	50.63	0.598	56.38
0.549	50.75	0.599	56.50

NOTE 3: (d) For shipments made in unlagged (uninsulated) single-unit tank car, during the months of November to March, inclusive, the following filling densities may be used in lieu of those specified in Note 3 (c). When these filling densities are used, tank cars must be shipped directly to consumers for unloading. Storage in transit is not permitted.

Specific gravity	Filling density	Specific gravity	Filling density
0.500	46.88	0.538	51.10
0.501	47.00	0.539	51.20
0.502	47.10	0.540	51.30
0.503	47.20	0.541	51.40
0.504	47.30	0.542	51.50
0.505	47.40	0.543	51.63
0.506	47.50	0.544	51.75
0.507	47.63	0.545	51.88
0.508	47.75	0.546	52.00
0.509	47.88	0.547	52.10
0.510	48.00	0.548	52.20
0.511	48.10	0.549	52.30
0.512	48.20	0.550	52.40
0.513	48.30	0.551	52.50
0.514	48.40	0.552	52.63
0.515	48.50	0.553	52.75
0.516	48.63	0.554	52.88
0.517	48.75	0.555	53.00
0.518	48.88	0.556	53.10
0.519	49.00	0.557	53.20
0.520	49.10	0.558	53.30
0.521	49.20	0.559	53.40
0.522	49.30	0.560	53.50
0.523	49.40	0.561	53.63
0.524	49.50	0.562	53.75
0.525	49.63	0.563	53.88
0.526	49.75	0.564	54.00
0.527	49.88	0.565	54.10
0.528	50.00	0.566	54.20
0.529	50.10	0.567	54.30
0.530	50.20	0.568	54.40
0.531	50.30	0.569	54.50
0.532	50.40	0.570	54.60
0.533	50.50	0.571	54.70
0.534	50.63	0.572	54.80
0.535	50.75	0.573	54.90
0.536	50.88	0.574	55.00
0.537	51.00	0.575	55.13

Specific gravity	Filling density	Specific gravity	Filling density
0.576	55.25	0.606	58.50
0.577	55.38	0.607	58.63
0.578	55.50	0.608	58.75
0.579	55.60	0.609	58.88
0.580	55.70	0.610	59.00
0.581	55.80	0.611	59.10
0.582	55.90	0.612	59.20
0.583	56.00	0.613	59.30
0.584	56.13	0.614	59.40
0.585	56.25	0.615	59.50
0.586	56.38	0.616	59.63
0.587	56.50	0.617	59.75
0.588	56.60	0.618	59.88
0.589	56.70	0.619	59.97
0.590	56.80	0.620	60.07
0.591	56.90	0.621	60.18
0.592	57.00	0.622	60.28
0.593	57.10	0.623	60.38
0.594	57.20	0.624	60.49
0.595	57.30	0.625	60.59
0.596	57.40	0.626	60.70
0.597	57.50	0.627	60.80
0.598	57.60	0.628	60.90
0.599	57.70	0.629	61.01
0.600	57.80	0.630	61.11
0.601	57.90	0.631	61.18
0.602	58.00	0.632	61.28
0.603	58.13	0.633	61.38
0.604	58.25	0.634	61.47
0.605	58.38	0.635	61.57

* * * * *

NOTE 21: A filling density of 58.8 percent may be used during the months of November to March, inclusive. When this filling density is used, tank cars must be shipped directly to consumers for unloading. Storage in transit is not permitted.

(b) The gas pressure at 105° F. in any lagged tank of tank cars of specs. 105A100, 105A100–W, 105A100AL–W, 105A200–W, 105A200AL–W, 105A300–W, 105A300AL–W, 105A400–W, 105A500–W, 105A600–W, 109A300–W, 109A100AL–W, 109A300AL–W, or 111A100–W–4 (§§ 78.270, 78.285, 78.294, 78.307, 78.308, 78.286, 78.300, 78.287, 78.288, 78.289, 78.301, 78.302, 78.314, or 78.306 of this chapter); at 115° F. in any unlagged tank of tank cars of spec. 112A400–W (§ 78.312 of this chapter); and at 130° F. in any unlagged tank of tank cars of spec. 106A500, 106A500X, 106A800, 106A800X, or 110A500–W (§§ 78.275, 78.276, or 78.293 of this chapter) must not exceed three-fourths times the prescribed retest pressure of the tank. The gas pressure at 130° F. in any unlagged tank of tank cars of the 107A (§ 78.277 of this chapter) series must not exceed seven-tenths of the marked test pressure of the tank.

(No change in Note 1.)

* * * * *

(c) The liquid portion of the gas at 105° F. must not completely fill a lagged tank nor at 130° F. completely fill an unlagged tank except that the liquid portion of the gas at 115° F. must not completely fill an unlagged tank of spec. 112A400–W (§ 78.312 of this chapter).

* * * * *

4. In § 73.315 amend paragraph (a) (1) table; amend paragraph (h) table; amend paragraph (i) (2) table (18 F. R. 6780, Oct. 27, 1953) (21 F. R. 3012, May 5, 1956) as follows:

§ 73.315 *Compressed gases in cargo tanks and portable tank containers.* (a) * * *

(1) * * *

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design working pressure (p. s. i. g.)
(Add)				
Vinyl chloride, inhibited	84	See Note 7	MC-330	250

* * * * *

(h) * * *

Kind of gas	Permitted gauging device
(Add)	
Vinyl chloride, inhibited	None

* * * * *

(i) * * *

(2) * * *

Kind of gas	Minimum start-to-discharge pressure (p. s. i. g.)
(Add)	
Vinyl chloride, inhibited	250

* * * * *

SUBPART G—POISONOUS ARTICLES; DEFINITION AND PREPARATION

1. In § 73.346 amend paragraph (a) (16); add paragraph (a) (17) (22 F. R. 3926, June 5, 1957) (15 F. R. 8335, Dec. 2, 1950) to read as follows:

§ 73.346 *Poisonous liquids not specifically provided for.* (a) * * *

(16) Spec. 42B, 42C, or 42D (§§ 78.107, 78.108, or 78.109 of this chapter). Aluminum drums.

(17) Spec. 42E (§ 78.136 of this chapter). Aluminum drums (single-trip).

2. In § 73.354 amend paragraph (a) (5) and Note 1 (21 F. R. 673, Jan. 31, 1956) to read as follows:

§ 73.354 *Motor fuel antiknock compound or tetraethyl lead.* (a) * * *

(5) Spec. MC 330 (§ 78.336 of this chapter) (see Note 1). Tank motor vehicles. Authorized for motor fuel antiknock compound only.

NOTE 1: Spec. MC 300, MC 301, MC 302, or MC 303 (§§ 78.321, 78.322, 78.323, or 78.324 of this chapter) tank motor vehicles in motor fuel antiknock compound service prior to October 1, 1955 may be continued in service.

3. In § 73.369 amend paragraph (a) (14) (15 F. R. 8337, Dec. 2, 1950) to read as follows:

§ 73.369 *Carbolic acid (phenol), not liquid.* (a) * * *

(14) Spec. MC 300, MC 301, MC 302, MC 303, MC 310, or MC 311 (§§ 78.321, 78.322, 78.323, 78.324, 78.330, or 78.331). Tank motor vehicles.

SUBPART H—MARKING AND LABELING EXPLOSIVES AND OTHER DANGEROUS ARTICLES

In § 73.414 paragraph (a) amend the Note following the label (17 F. R. 7283, Aug. 9, 1952) to read as follows:

§ 73.414 *Radioactive materials labels.* (a) * * *

NOTE: This label must be duly executed by the shipper and the number of radiation units must be shown. For purposes of these regulations 1 unit equals 1 milliroentgen per hour at 1 meter for hard gamma radiation or the amount of radiation which has the same effect on film as 1 mrhm of hard gamma rays of radium filtered by ½ inch of lead.

* * * * *

SUBPART I—SHIPPING INSTRUCTIONS

In § 73.432 amend Note 2 to paragraph (e) (15 F. R. 8344, Dec. 2, 1950) to read as follows:

§ 73.432 *Tank car shipments.* * * *

(e) * * *

NOTE 2: Carriers should give permission for the unloading of these containers on carrier tracks only where no private siding is available within reasonable trucking distance of final destination. The danger involved is the release of compressed gases due to accidental injury to container in handling. The exposure to this danger decreases directly with the isolation of the unloading point.

PART 74—CARRIERS BY RAIL FREIGHT

SUBPART A—LOADING, UNLOADING, PLACARDING AND HANDLING CARS; LOADING PACKAGES INTO CARS

In § 74.526 amend the introductory text of paragraph (n) and subparagraphs (1) and (2) (20 F. R. 953, Feb. 15, 1955) (20 F. R. 4418, June 23, 1955) to read as follows:

§ 74.526 *Loading explosives into cars.* * * *

(n) Container cars or portable containers on flat cars or gondola cars (drop-bottom cars not authorized), when properly loaded, blocked, and braced to prevent change of position under conditions incident to normal transportation, may be used for any class A explosive except black powder packed in metal containers. Portable containers must be of a type approved by the Bureau of Explosives and when constructed of wood must have been painted or treated with fire-retardant material.

(1) Portable containers must be of such design and so braced that there will be no evidence of failure of the container or the bracing when subjected to impact of at least 8 miles per hour. Efficiency shall be determined by actual test, using dummy loads equal in weight and general character to material to be shipped.

(2) Container cars or cars which are loaded with portable containers must be placarded with the "Explosives" placards as prescribed in § 74.550 and properly executed car certificates as required by § 74.525.

* * * * *

SUBPART B—LOADING AND STORAGE CHART OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

In § 74.538 paragraph (a) chart, amend footnote e (22 F. R. 2229, April 4, 1957) to read as follows:

§ 74.538 *Loading and storage chart of explosives and other dangerous articles.* (a) * * *

* Does not include nitro carbo nitrate or ammonium nitrate, fertilizer grade, which may be loaded, transported or stored with high explosives or with blasting caps or electric blasting caps, and detonating primers.

* * * * *

SUBPART C—PLACARDS ON CARS

1. In § 74.549 amend paragraph (h) (21 F. R. 7604, Oct. 4, 1956) to read as follows:

§ 74.549 *Application of placard.* * * *

(h) Placards as required by §§ 74.540, 74.541, and 74.542 must be securely applied to both sides and both ends of car, or to both sides and both ends of truck body or trailer loaded on flat cars, containing explosives or other dangerous articles. Car certificates as required by § 74.525 must be securely applied to both sides of such cars. When more than one trailer is loaded on a flat car, placards must be applied so as to be plainly visible from both ends of the car.

2. Amend entire § 74.553 (22 F. R. 3926, June 5, 1957) to read as follows:

§ 74.553 *Dangerous-Radioactive material placard.* (a) The "Dangerous-Radioactive material" placard for class D poisons must be of diamond shape, measuring 10¾ inches on each side, and must bear the wording in red letters as shown in the following cut:

DANGEROUS PLACARD FOR RADIOACTIVE MATERIAL

(Reduced size)

SUBPART D—UNLOADING FROM CARS

In § 74.560 amend Note 2 to paragraph (b) (2) (15 F. R. 8352, Dec. 2, 1950) to read as follows:

§ 74.560 *Tank car delivery.* * * *

(b) * * *

(2) * * *

NOTE 2: Carriers should give permission for the unloading of these containers on carrier tracks only where no private siding is available within reasonable trucking distance of final destination. The danger involved is the release of compressed gases due to accidental injury to container in handling. The exposure to this danger decreases directly with the isolation of the unloading point.

PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

In § 77.848 paragraph (a) chart, amend item (b) vertical and horizontal columns by inserting under item (d) vertical and horizontal columns the footnote "a" at the respective intersections, to read "aX"; amend footnote e to paragraph (a) chart (21 F. R. 9361, Nov. 30, 1956) (22 F. R. 2229, April 4, 1957) to read as follows:

§ 77.848 *Loading and storage chart of explosives and other dangerous articles.* (a) * * *

* Does not include nitro carbo nitrate or ammonium nitrate, fertilizer grade, which may be loaded, transported or stored with high explosives or with blasting caps or electric blasting caps, and detonating primers.

* * * * *

PART 78—SHIPPING CONTAINER SPECIFICATIONS

SUBPART A—SPECIFICATIONS FOR CARBOYS, JUGS IN TUBS, AND RUBBER DRUMS

1. Amend entire § 78.1–3 (15 F. R. 8373, Dec. 2, 1950) to read as follows:

§ 78.1 *Specification 1A; boxed carboys.*

§ 78.1–3 *Closing devices required.* (a) As follows except when otherwise authorized in the packing regulations:

(1) Acidproof stoppers or other devices, with gaskets, securely fastened; venting closures are required when necessary to prevent internal pressure in excess of 8 pounds per square inch gauge at 130° F.

(2) Glass stoppers ground to fit and securely fastened are authorized when internal pressures do not exceed 8 pounds per square inch gauge at 130° F.

2. Amend entire § 78.3–3 (15 F. R. 8375, Dec. 2, 1950) to read as follows:

§ 78.3 *Specification 1C; carboys in kegs.*

§ 78.3–3 *Closing devices required.* (a) As follows except when otherwise authorized in the packing requirements:

(1) Acidproof stoppers or other devices, with gaskets, securely fastened; venting closures are required when necessary to prevent internal pressure in excess of 8 pounds per square inch gauge at 130° F.

(2) Glass stoppers ground to fit and securely fastened are authorized when internal pressures do not exceed 8 pounds per square inch gauge at 130° F.

3. In § 78.4–6 amend paragraph (c) (15 F. R. 8376, Dec. 2, 1950) to read as follows:

§ 78.4 *Specification 1D; boxed glass carboys.*

§ 78.4–6 *Outside containers.* * * *

(c) Assemble sides and ends with grain of wood horizontal and nail as specified. Nail bottom to sides and ends; fasten top by any efficient means (friction closure not authorized). Cleats for shoes to be along edges of bottom parallel to carrying cleats and at right angle to the direction of bottom board or boards.

* * * * *

4. Amend entire § 78.5–2 (15 F. R. 8377, Dec. 2, 1950) to read as follows:

§ 78.5 *Specification 1X; boxed carboys, 5 to 6 gallon, for export only.*

§ 78.5–2 *Closing devices required.* (a) As follows except when otherwise authorized in the packing regulations:

(1) Acidproof stoppers or other devices, with gaskets, securely fastened; venting closures are required when necessary to prevent internal pressure in excess of 8 pounds per square inch gauge at 130° F.

(2) Glass stoppers ground to fit and securely fastened are authorized when internal pressures do not exceed 8 pounds per square inch gauge at 130° F.

(3) For box: Two flat metal nailless straps, at least ⅝ inch by 0.020 inch, encircling top, sides, and bottom and securely sealed, are required.

5. Amend entire § 78.6–3 (15 F. R. 8377, Dec. 2, 1950) to read as follows:

§ 78.6 *Specification 1EX; glass carboys in plywood drums.*

§ 78.6–3 *Closing devices required.* (a) As follows except when otherwise authorized in the packing regulations:

(1) Acidproof stoppers or other devices, with gaskets, securely fastened; venting closures are required when necessary to prevent internal pressure in excess of 8 pounds per square inch gauge at 130° F.

(2) Glass stoppers ground to fit and securely fastened are authorized when internal pressures do not exceed 8 pounds per square inch gauge at 130° F.

6. In § 78.7–4 amend entire paragraph (b) (16 F. R. 11781, 11782, Nov. 21, 1951) to read as follows:

§ 78.7 *Specification 1E; glass carboys in plywood drums.*

§ 78.7–4 *Glass carboys.* * * *

(b) *Closing devices required.* (For carboys without schew thread finish.) As follows except when otherwise authorized in the packing regulations:

(1) Acidproof stoppers or other devices, with gaskets, securely fastened; venting closures are required when necessary to prevent internal pressure in excess of 8 pounds per square inch gauge at 130° F.

(2) Glass stoppers ground to fit and securely fastened are authorized when internal pressures do not exceed 8 pounds per square inch gauge at 130° F.

7. In § 78.10–6 amend the introductory text of paragraph (a) (17 F. R. 7284, Aug. 9, 1952) to read as follows:

§ 78.10 *Specification 1F; polyethylene carboys in plywood drums.*

§ 78.10–6 *Tests.* (a) Samples, taken at random and with inner container filled to marked capacity with water and closed as for use, shall be capable of withstanding prescribed tests without leakage from inside container or breakage of outside container that would contribute to potential failure of inner container. Tests shall be made of each size by each company starting production. The type tests are as follows:

* * * * *

SUBPART C—SPECIFICATIONS FOR CYLINDERS

Add § 78.68 (15 F. R. 8432, Dec. 2, 1950) to read as follows:

§ 78.68 *Specification 4E; welded aluminum cylinders.*

§ 78.68–1 *Compliance.* (a) Required in all details.

§ 78.68–2 *Type, size and service pressure*—(a) *Type and size.* Must be welded seamless drawn shells, not more than two shells, with center circumferential weld; not over 1,000 pounds water capacity (nominal); longitudinal welded seam not authorized. Cylinders or shells closed in by spinning process not authorized.

(b) *Service pressure.*[1] At least 225 to not over 500 pounds per square inch.

§ 78.68–3 *Inspection by whom and where.* (a) By competent inspector; chemical analyses and tests as specified to be made within limits of the United States. Interested inspectors are authorized.

§ 78.68–4 *Duties of inspector.* (a) Inspect all material and reject any material not complying with requirements.

(b) Verify chemical analysis of each lot of material by analysis or by obtaining certified analysis: *Provided,* That a certificate from the manufacturer thereof, giving sufficient data to indicate compliance with requirements, is acceptable when verified by check analysis of samples taken from one aluminum cylinder out of each lot of 200 or less.

(c) Verify compliance of cylinders with all requirements including markings; inspect inside before closing in both ends; verify properties as proper; obtain samples for all tests and check chemical analysis; witness all tests; verify threads by gauge; report volumetric capacity, tare weight (see report form) and wall thickness as approved.

(d) Render complete report (§ 78.68–20) to purchaser; cylinder manufacturer; and the Bureau of Explosives.

§ 78.68–5 *Aluminum.* (a) Shall be of uniform quality. The following chemical analyses are authorized:

[1] The "service pressure" limits the use of the cylinder. It is shown by marks on cylinders; for example ICC–4E240 indicates the service pressure as 240 pounds per square inch.

TABLE I—AUTHORIZED MATERIALS

Designation	Chemical analysis—limits in percent 5154 [1]
Iron plus silicon	0.45 maximum.
Copper	0.10 maximum.
Manganese	0.10 maximum.
Magnesium	3.1/3.9.
Chromium	0.15/0.35.
Zinc	0.20 maximum.
Titanium	0.20 maximum.
Others, each	0.05 maximum.
Others, total	0.15 maximum.
Aluminum	Remainder.

[1] Analysis shall regularly be made only for the elements specifically mentioned above. If, however, the presence of other elements is indicated in the course of routine analysis, further analysis should be made to determine conformance with the limits specified for other elements.

§ 78.68–6 *Identification of material.* (a) Required; any suitable method that will identify the alloy and manufacturer's lot number.

§ 78.68–7 *Defects.* (a) Material with seams, cracks, laminations or other injurious defects not authorized.

§ 78.68–8 *Manufacture.* (a) By best processes and methods; dirt and foreign particles to be removed as necessary to afford proper inspection; no defect acceptable that is likely to weaken the finished cylinder appreciably; reasonably smooth and uniform surface finish required; all welding must be by the gas shielded arc process.

§ 78.68–9 *Welding.* (a) The attachment to the tops and bottoms only of cylinders by welding of neckrings or flanges, footrings, handles, bosses and pads and valve protection rings is authorized: *Provided,* That such attachments and the portion of the cylinder to which it is attached are made of weldable aluminum alloys.

§ 78.68–10 *Wall thickness.* (a) The minimum wall thickness of the cylinder shall be 0.140 inch. In any case, the minimum wall thickness shall be such that calculated wall stress at twice service pressure shall not exceed the lesser value of either of the following:

(1) 20,000 pounds per square inch.

(2) One-half of the minimum tensile strength of the material as required in § 78.68–15.

(b) Calculation must be made by the formula:

$$S=\frac{P(1.3D^2+0.4d^2)}{D^2-d^2}$$

where

S = wall stress in pounds per square inch;
P = minimum test pressure prescribed for water jacket test;
D = outside diameter in inches;
d = inside diameter in inches.

(c) Minimum thickness of heads and bottoms shall not be less than the minimum required thickness of the side wall.

§ 78.68–11 *Opening in cylinder.* (a) All openings must be in the heads or bases.

(b) Each opening in cylinders, except those for safety devices, must be provided with a fitting, boss, or pad, securely attached to cylinder by welding by inert gas shielded arc process or by threads. If threads are used, they must comply with the following:

(1) Threads must be clean-cut, even, without checks and cut to gauge.

(2) Taper threads to be of length not less than as specified for American Standard taper pipe threads.

(3) Straight threads, having at least 4 engaged threads, to have tight fit and calculated shear strength at least 10 times the test pressure of the cylinder; gaskets required, adequate to prevent leakage.

(c) Closure of fitting, boss, or pad must be adequate to prevent leakage.

§ 78.68–12 *Safety devices and protection for valves, safety devices, and other connections if applied.* (a) Must be as required by the Interstate Commerce Commission regulations that apply (see §§ 73.34 (f), 73.124 (a), and 73.301 (i) of this chapter).

§ 78.68–13 *Hydrostatic test.* (a) Each cylinder by water-jacket, or other suitable method, operated so as to obtain accurate data. Pressure gauge must permit reading to accuracy of 1 percent. Expansion gauge must permit reading of total expansion to accuracy either of 1 percent or 0.1 cubic centimeter.

(b) Pressure of 2 times service pressure must be maintained for 30 seconds and sufficiently longer to insure complete expansion. Any internal pressure applied previous to the official test must not exceed 90 percent of the test pressure. If, due to failure of the test apparatus, the test pressure cannot be maintained, the test may be repeated at a pressure increased to 10 percent.

(c) Permanent volumetric expansion must not exceed 12 percent of total volumetric expansion at test pressure.

(d) One finished cylinder selected at random out of each lot of 1,000 shall be hydrostatically tested to destruction. Failure shall occur in the side wall and shall not occur at a pressure less than 4 times the service pressure. Inability to meet these requirements shall result in rejection of the lot.

§ 78.68–14 *Flattening test.* (a) Flattening test required between knife edges, wedge shaped, 60° angle, rounded to ½ inch radius; on one section of a cylinder taken at random out of each lot of 200 or less, after hydrostatic test. Sample must show no evidence of cracking when flattened to 6 times wall thickness.

§ 78.68–15 *Physical test.* (a) To determine yield strength, tensile strength, elongation, and reduction of area of material. Required on 2 specimens cut from one cylinder or part thereof taken at random out of each lot of 200 or less.

(b) Specimens must be: Gauge length 8 inches with width not over 1½ inches; or gauge length 2 inches with width not over 1½ inches. The specimen, exclusive of grip ends, must not be flattened. Grip ends may be flattened to within 1 inch of each end of the reduced section. When size of cylinder does not permit securing straight specimens, the specimens may be taken in any location or direction and may be

straightened or flattened cold, by pressure only, not by blows; when specimens are so taken and prepared, the inspector's report must show in connection with record of physical test detailed information in regard to such specimens. Heating of specimen for any purpose is not authorized.

(c) The yield strength in tension shall be the stress corresponding to a permanent strain of 0.2 percent of the gauge length.

(1) The yield strength shall be determined by the "offset" method as prescribed in ASTM Standard E8–54T.

(2) Cross-head speed of the testing machine shall not exceed ⅛ inch per minute during yield strength determination.

§ 78.68–16 *Acceptable results for physical tests.* (a) Elongation at least 7 percent for 2 inch gauge length; yield strength not over 80 percent of tensile strength.

§ 78.68–17 *Weld tests.* (a) Reduced section tensile test. A specimen shall be cut from the cylinder used for the physical tests specified in § 78.68–15. Specimen shall be taken across the seam, edges shall be parallel for a distance of approximately 2 inches on either side of the weld. The specimen must be fractured in tension. The apparent breaking stress calculated on the minimum wall thickness must be at least equal to 2 times the stress calculated under § 78.68–10 (b), and in addition must have an actual breaking stress of at least 30,000 pounds per square inch. Should this specimen fail to meet the requirements, specimens may be taken from 2 additional cylinders from the same lot and tested. If either of the latter specimens fails to meet requirements, the entire lot represented shall be rejected.

(b) Guided bend test. A bend test specimen shall be cut from the cylinder used for the physical tests specified in § 78.68–15. Specimen shall be taken across the seam, shall be 1½ inches wide, edges shall be parallel and rounded with a file, and back-up strip, if used, shall be removed by machining. The specimen shall be bent to refusal in the guided bend test jig illustrated in § 78.51–22. The root of the weld (inside surface of the cylinder) shall be located away from the ram of the jig. No specimen shall show a crack or other open defect exceeding ⅛ inch in any direction upon completion of the test. Should this specimen fail to meet the requirements, specimens may be taken from each of 2 additional cylinders from the same lot and tested. If either of the latter specimens fails to meet requirements, the entire lot represented shall be rejected.

§ 78.68–18 *Rejected cylinders.* (a) Repair of welded seams is authorized. Acceptable cylinders must pass all prescribed tests.

§ 78.68–19 *Marking.* (a) Marking on each cylinder by stamping plainly and permanently on shoulder, top head, neck or valve protection collar which may be permanently attached to the cylinder and forming an integral part thereof, as follows:

(1) ICC–4E followed by the service pressure (for example, ICC–4E240).

(2) A serial number and an identifying symbol (letters); location of symbol to be just below the serial number. The symbol and numbers must be those of the purchaser, user, or maker. The symbol must be registered with the Bureau of Explosives.

(3) Inspector's official mark, near serial number; date of test (such as 5–50 for May 1950), so placed that date of subsequent test can be easily added.

(4) Size of marks. Shall be at least ¼ inch high.

§ 78.68–20 *Inspector's report.* (a) Required to be clear, legible, and in following form:

(Place) _____
(Date) _____

Gas cylinders

Manufactured for _____ Company
Location at _____
Manufactured by _____ Company
Location at _____
Consigned to _____ Company
Location at _____
Quantity _____
Size ____ inches outside diameter by ____ inches long.
Marks stamped into the shoulder of the cylinder are:
Specification ICC _____
Serial numbers _____ to _____ inclusive.
Inspector's mark _____
Identifying symbol (registered) _____
Test date _____
Tare weights (yes or no) _____
Other marks (if any) _____

These cylinders were made by process of _____

The _____ permitted in (Neckrings, footrings, etc.) § 78.68–9 were attached by process of _____

The material used was identified by the following _____ numbers _____

The material used was verified as to chemical analysis and record thereof is attached hereto.

All material, such as aluminum plate, was inspected before manufacture and the drawn cylinder shells were inspected before final fabrication and found free from seams, cracks, laminations and other defects which might prove injurious to the strength of the cylinder; the processes of manufacture were found to be efficient and satisfactory.

The cylinder walls were measured and the minimum thickness noted was _____ inch. The outside diameter was determined by a close approximation to be _____ inches. The wall stress was calculated to be _____ pounds per square inch under an internal pressure of _____ pounds per square inch.

Hydrostatic tests, flattening tests, tensile tests of material and other tests as prescribed in Specification ICC–4E were made in the presence of the inspector and all material and cylinders accepted were found to be in compliance with the requirements of that specification. Records thereof are attached hereto.

I hereby certify that all of these cylinders proved satisfactory in every way and comply with the requirements of Interstate Commerce Commission specification No. 4E except as follows:

Exceptions: _____

(Signed) _____
Inspector.

(Place) _____
(Date) _____

RECORD OF CHEMICAL ANALYSIS OF MATERIAL FOR CYLINDERS

Numbered _____ to _____ inclusive.
Size _____ inches outside diameter by _____ inches long.
Made by _____ Company
For _____ Company

NOTE: Any omission of analyses by heats, if authorized, must be accounted for by notation hereon reading "The prescribed certificate of the manufacturer of material has been secured, found satisfactory, and placed on file," or by attaching a copy of the certificate.

Test No.	Check analysis No.	Cylinders represented (Serial Nos.)	Chemical analysis							
			Mg	Cr	Cu	Mn	Zn	Ir	Al	Ti

The analyses were made by _____

(Signed) _____

(Place) _____
(Date) _____

RECORD OF PHYSICAL TESTS OF MATERIAL FOR CYLINDERS

Numbered _____ to _____ inclusive.
Size _____ inches outside diameter by _____ inches long
Made by _____ Company
For _____ Company

Test No.	Cylinders represented by test (Serial Nos.)	Yield strength (pounds per square inch)	Tensile strength (pounds per square inch)	Elongation (percent in 8 inches)	Reduction of area (percent)	Flattening test	Burst test (pounds per square inch)

(Signed) _____

(Place) _____
(Date) _____

RECORD OF HYDROSTATIC TESTS ON CYLINDERS

Numbered _____ to _____ inclusive.
Size _____ inches outside diameter by _____ inches long
Made by _____ Company
For _____ Company

Serial numbers of cylinders tested arranged numerically	Actual test pressure (pounds per square inch)	Total expansion (cubic centimeters) [1]	Permanent expansion (cubic centimeters) [1]	Percent ratio of permanent expansion to total expansion [1]	Tare weight (pounds) [2]	Volumetric capacity [3]

NOTE: When specifications require test for only 1 out of each lot of 200 or less cylinders, the check on the others must be indicated by a notation hereon reading, "Each cylinder was subjected to a pressure of _____ pounds per square inch and showed no defect."

[1] If the tests are made by a method involving the measurement of the amount of liquid forced into the cylinder by the test pressure, then the basic data, on which the calculations are made, such as the pump factors, temperature of liquid, coefficient of compressibility of liquid, etc., must also be given.
[2] Do not include removable cap but state whether with or without valve. These weights must be accurate to a tolerance of 1 percent.
[3] Report approximate maximum and minimum volumetric capacity for the lot.

(Signed) _____

SUBPART D—SPECIFICATIONS FOR METAL BARRELS, DRUMS, KEGS, CASES, TRUNKS AND BOXES

In § 78.131–6 paragraph (a) table amend the 4th column heading; amend footnote 1 to paragraph (a) (22 F. R. 2234, April 4, 1957) (20 F. R. 4419, June 23, 1955) to read as follows:

§ 78.131 *Specification 37A; steel drums.*

§ 78.131–6 *Capacities, weights, type, and gauges.* (a) * * *

Minimum thickness, uncoated sheets [1] (gauge)	
Body sheet [3]	Head sheet

* * * * *

[1] All gauges specified are minimum except as provided by Part 73 of this chapter. Heavier (but not lighter) gauges may be specified if shipper so desires.

* * * * *

SUBPART F—SPECIFICATIONS FOR FIBERBOARD BOXES, DRUMS, AND MAILING TUBES

1. Add § 78.205–33 (15 F. R. 8476, Dec. 2, 1950) to read as follows:

§ 78.205 *Specification 12B; fiberboard boxes.*

§ 78.205–33 *Special box; authorized only for electrolyte (acid) and alkaline corrosive battery fluid packed with storage batteries.* (a) Box shall comply with this specification except that corrugated fiberboard shall have strength of not less than 200 pounds per square inch, Mullen or Cady test. Top and bottom pads and fill-in pieces are not required when inner flaps do not meet. Electrolyte (acid) or alkaline corrosive battery fluid must be packed in polyethylene containers or other material resistant to the lading and not over 12 containers of not over 64-ounce capacity each may be packed in one outside container and must be separated from the storage battery by suitable cushioning. Polyethylene containers that are not rigid or semi-rigid in nature must be contained in other strong inside containers; minimum thickness of polyethylene or other plastic material shall be not less than 0.003 inch for any film sheet for multi-wall containers or not less than 0.006 inch for single-wall containers. (See § 73.258 of this chapter.) Authorized gross weight not over 65 pounds.

2. Add § 78.210 (15 F. R. 8479, Dec. 2, 1950) to read as follows:

§ 78.210 *Specification 12A; fiberboard boxes.*

§ 78.210–1 *Compliance.* (a) Required in all details.

§ 78.210–2 *Definitions.* (a) Terms such as "200-pound test" mean minimum strength. Mullen or Cady test.

(b) "Joints" are where edges of parts of box, except recessed flanged heads, are connected together in setting up the box. Generally done by box maker.

§ 78.210–3 *Classification of board.* (a) Fiberboard is hereby classified by strength [1] of completed board as in first column of the following table; weights specified in the table are the minimums authorized.

Classified strength of completed board	Facings for corrugated fiberboard	
	Double-faced-minimum combined weight of facings (pounds per 1,000 sq. ft.)	Double-wall-minimum combined weight of facings including center liner (pounds per 1,000 sq. ft.)
200	84	92
275	138	110

§ 78.210–4 *Corrugated fiberboard.* (a) Both outer facings water resistant; corrugated sheets must be at least 0.009 inch thick and weigh not less than 26 pounds per 1000 square feet; all parts must be securely glued together throughout all contact areas.

§ 78.210–5 *Tests.* (a) Acceptable board must have prescribed strength, Mullen or Cady test, after exposure for at least 3 hours to normal atmospheric conditions (50 to 70 percent relative humidity), under test as follows:

(1) Clamp board firmly in machine and turn wheel thereof at constant speed of approximately 2 revolutions per second.

(2) Six punctures required, 3 from each side; all results but one must show prescribed strength.

(3) Board failing may be retested by making 24 punctures, 12 from each side, when all results but 4 show prescribed strength the board is acceptable.

(4) Double-pop tests may be disregarded.

[1] Mullen or Cady test (minimum).

§ 78.210–6 *Boxes authorized.* (a) Corrugated fiberboard boxes having gross weight not over 75 pounds of the following strengths are authorized:

Gross weight not over (pounds)	Corrugated fiberboard strength (Mullen or Cady test) minimum	
	Double-faced	Double-wall
20	200	* * *
50	275	* * *
75	* * *	275

§ 78.210–7 *Forming.* (a) Parts must be cut true to size and so creased and slotted as to fit closely into position without cracking, surface breaks, separation of parts outside of crease, or undue binding.

§ 78.210–8 *Joints.* (a) For slotted containers; lapped 1½ inches except as in (§ 78.210 (b) (2)); stitched at 2½ inch intervals and within 1 inch of each end of joint; body joint must be double-stitched (2 parallel stitches) at each end of joint over 18 inches long.

(b) Joints as provided for by the following are authorized provided resulting joint is capable of withstanding the tests prescribed by § 78.210–10:

(1) For slotted containers only; one butt joint, taped, is authorized.

(2) For glued lap joint, the sides of box forming joint must lap not less than 1¼ inches and be firmly glued throughout entire area of contact with a glue or adhesive which cannot be dissolved in water after the film application has dried.

(3) For triple and double slide boxes; joints of all slides must be taped or stitched.

§ 78.210–9 *Inside cushioning.* (a) Sufficient inside cushioning shall be required for protection of inside containers so that completed packages as offered for shipment shall be capable of withstanding test prescribed by § 78.210–10.

§ 78.210–10 *Test for completed package.* (a) A minimum of 4 boxes with inside containers filled with water, and box closed as for shipment, shall be capable of withstanding the following drop tests from the prescribed heights onto solid concrete without leakage from or breakage of any inside container or rupture of the outside fiberboard box; each box shall be subjected to not more than one of the series of tests:

(1) Box No. 1. Flat drop on bottom from height of 4 feet.

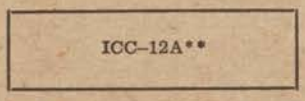
(2) Box No. 2. Flat drop on side from height of 4 feet.

(3) Box No. 3. Flat drop on end from height of 4 feet.

(4) Box No. 4. Flat drop on top from height of 2 feet.

§ 78.210–11 *Closing for shipment.* (a) By any method capable of withstanding tests prescribed by § 78.210–10.

§ 78.210–12 *Marking.* (a) On each container. Symbol in rectangle as follows:



(1) Stars to be replaced by authorized gross weight (ICC–12A75). This mark shall be understood to certify that the container complies with all specification requirements.

(2) Name and address of plant making the container; symbol (letters) authorized if recorded with the Bureau of Explosives. This mark to be located just above or below the mark specified in (a) of this section.

(3) Size of markings—At least ½" high.

3. Amend entire § 78.219–5 (18 F. R. 3144, June 2, 1953) (17 F. R. 1564, Feb. 20, 1952) to read as follows:

§ 78.219 *Specification 23H; fiberboard boxes.*

§ 78.219–5 *Tape.* (a) Tape used shall comply with the following:

(1) When pressure sensitive paper backed tape is used, the basic weight of the paper shall be not less than 70 pounds per ream after sizing and coating. Longitudinal tensile strength shall be not less than 50 pounds per inch of width and the latitudinal strength shall be not less than 11 pounds per inch of width.

(2) When pressure sensitive filament reinforced tape is used for vertical application as provided by § 78.219–12, tape backing shall have a minimum longitudinal tensile strength of 160 pounds per inch of width and a minimum elongation of 12 percent at break. The tape shall have sufficient transverse strength to prevent raveling or separation of the filaments. Tape shall have an adhesion of 18 ounces per inch of width minimum when tested according to acceptable methods. Tape shall adhere immediately and firmly to fiberboard surface when applied with hand pressure in the temperature range of 0° to 120° F. No solvent or heat shall be necessary to activate the adhesive.

(b) The tape authorized by paragraph (a) of this section must be manufactured of material which will not separate or delaminate when submerged in water for 72 hours and which will not show any delamination or bleeding up to 160° F. and which will not lose its strength, delaminate or become brittle at 0° F.

(c) Any tape of moisture resistance equal to that prescribed in paragraphs (a) and (b) of this section is additionally authorized provided the tape is capable of withstanding tests prescribed by § 78.219–16.

SUBPART I—SPECIFICATIONS FOR TANK CARS

1. In § 78.265–4 amend the introductory text of paragraph (b); in § 78.265–13 amend paragraph (d) (21 F. R. 4567, 4568, June 26, 1956) to read as follows:

§ 78.265 *Specification ICC–103; riveted steel tanks to be mounted on or forming part of a car.*

§ 78.265–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates, including thickness of each plate at rivet seams, must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.265–13 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

2. In § 78.266–4 amend the introductory text of paragraph (b) (21 F. R. 4570, June 26, 1956) to read as follows:

§ 78.266 *Specification ICC–103A; riveted steel tanks to be mounted on or forming part of a car.*

§ 78.266–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates, including thickness of each plate at rivet seams, must be to the following design dimensions:

(No change in table.)

* * * * *

3. In § 78.267–4 amend the introductory text of paragraph (b); in § 78.267–14 amend paragraph (b) (21 F. R. 4572, 4573, June 26, 1956) to read as follows:

§ 78.267 *Specification ICC–103B; rubber lined riveted steel tanks to be mounted on or forming part of a car.*

§ 78.267–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates, including thickness of each plate at rivet seams, must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.267–14 *Safety vents.* * * *

(b) Each tank, or compartment thereof, must be equipped with one safety vent of approved material and if of metal, must be lined with rubber at least ⅛ inch in thickness, having an inside diameter of at least 1¾ inches after lining, closed with a frangible disc of lead or other suitable material of a thickness that will rupture at not more than 45 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement.

4. In § 78.269–4 amend the introductory text of paragraph (b); in § 78.269–13 amend paragraph (d) (21 F. R. 4574, 4575, June 26, 1956) to read as follows:

§ 78.269 *Specification ICC–104; lagged riveted steel tanks to be mounted on or forming part of a car.*

§ 78.269–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates, including thickness of each plate at rivet seams, must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.269–13 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

5. In § 78.270–4 amend the introductory text of paragraph (b) (21 F. R. 4577, June 26, 1956) to read as follows:

§ 78.270 *Specification ICC–105A100; lagged riveted steel tanks to be mounted on or forming part of a car.*

§ 78.270–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates, including thickness of each plate at rivet seams, must be to the following design dimensions:

(No change in table.)

* * * * *

6. In § 78.280–4 amend the introductory text of paragraph (b); in § 78.280–15 amend paragraph (d) (21 F. R. 4586, 4587, June 26, 1956) to read as follows:

§ 78.280 *Specification ICC–103–W; fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.280–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.280–15 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

7. In § 78.281–4 amend the introductory text of paragraph (b) (21 F. R. 4588, June 26, 1956) to read as follows:

§ 78.281 *Specification ICC–103A–W; fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.281–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

8. In § 78.282–4 amend the introductory text of paragraph (b); in § 78.282–15 amend paragraph (b) (21 F. R. 4591, 4592, June 26, 1956) to read as follows:

§ 78.282 *Specification ICC–103B–W; rubber lined fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.282 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.282–15 *Safety vents.* * * *

(b) Each tank, or compartment thereof, must be equipped with one safety vent of approved material and if of metal, must be lined with rubber at least ⅛ inch in thickness, having an inside diameter of at least 1¾ inches after lining, closed with a frangible disc of lead or other suitable material of a thickness that will rupture at not more than 45 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement.

* * * * *

9. In § 78.283–4 amend the introductory text of paragraph (b) (21 F. R. 4593, June 26, 1956) to read as follows:

§ 78.283 *Specification ICC–103C–W; fusion-welded alloy steel tanks to be mounted on or forming part of a car.*

§ 78.283–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

10. In § 78.284–4 amend the introductory text of paragraph (b); in § 78.284–15 amend paragraph (d) (21 F. R. 4595, 4596, June 26, 1956) to read as follows:

§ 78.284 *Specification ICC–104–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.284–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.284–15 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

11. In § 78.285–4 amend the introductory text of paragraph (b) (21 F. R. 4597, June 26, 1956) to read as follows:

§ 78.285 *Specification ICC–105A100–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.285–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

12. In § 78.291–4 add paragraph (e); in § 78.291–14 amend paragraph (d) (22 F. R. 3670, May 24, 1957) (21 F. R. 4606, 4607, June 26, 1956) to read as follows:

§ 78.291 *Specification ICC–103AL–W; fusion-welded aluminum tanks to be mounted on or forming part of a car.*

§ 78.291–4 *Thickness of plates.* * * *

(e) When a tank is divided into compartments, the interior heads must comply with the requirements for interior compartment heads prescribed herein. When capacity of tank is reduced by moving in the exterior head, a new exterior head of approved contour not less than ½ inch in thickness must be applied. When the capacity is reduced by the insertion of a new interior head, this head must comply with the requirements for interior compartment heads and the exterior head reapplied. Voids, created by the addition of heads for division into compartments or reduction in capacity, must be provided with at least one open drain hole at their lowest point, and a tapped hole at top of tank. The top hole must be closed with not less than ¾ inch or not more than 1½ inch solid pipe plugs having standard pipe threads.

§ 78.291–14 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

13. In § 78.292–4 add paragraph (e) (22 F. R. 3671, May 24, 1957) to read as follows:

§ 78.292 *Specification ICC–103A–AL–W; fusion-welded aluminum tanks to be mounted on or forming part of a car.*

§ 78.292–4 *Thickness of plates.* * * *

(e) When a tank is divided into compartments, the interior heads must comply with the requirements for interior compartment heads prescribed herein. When capacity of tank is reduced by moving in the exterior head, a new exterior head of approved contour not less than ½ inch in thickness must be applied. When the capacity is reduced by the insertion of a new interior head, this head must comply with the requirements for interior compartment heads and the exterior head reapplied. Voids, created by the addition of heads for division into compartments or reduction in capacity, must be provided with at least one open drain hole at their lowest point, and a tapped hole at top of tank. The top hole must be closed with not less than ¾ inch or not more than 1½ inch solid pipe plugs having standard pipe threads.

14. Amend entire § 78.293 (21 F. R. 4610 to 4613, June 26, 1956) (21 F. R. 9364, Nov. 30, 1956) to read as follows:

§ 78.293 *Specification ICC–110A500–W; welded steel tanks to be mounted on a car.* (a) Wherever the word "approved" is used in this specification, it means approval by the Association of American Railroads Committee on Tank Cars as prescribed in § 78.259 Applications for approval, (a), (b), (c) and (d).

§ 78.293–1 *Type and general requirements.* (a) Tanks built under this specification must be of one piece cylindrical shell with heads of approved design. All operating fittings must be located in one of the heads, and no openings of any sort are permitted in the cylindrical shell. Tanks must be securely attached to the car structure in a manner such that they may be removed for filling by the consignor and emptying by the consignee. Each tank must have a capacity of at least 1600 pounds of water and not more than 2600 pounds of water.

(b) The tanks must be fabricated by approved methods.

(c) For tanks made in foreign countries, Canada excepted, a chemical analysis of material and all tests as specified must be carried out within the limits of the United States under supervision of a competent and disinterested inspector.

§ 78.293–2 *Thickness of plates.* (a) The wall thickness in the cylindrical portion on the tank must not be less than that calculated by the following formula; and in no case less than $^{11}/_{32}$ inch:

$$t=\frac{Pd}{2SE}$$

where

t = thickness in inches of thinnest plate;
P = calculated bursting pressure in pounds per square inch; 1,250 pounds per square inch gauge minimum;
d = inside diameter in inches;
S = minimum specified ultimate tensile strength of plate in pounds per square inch;
E = efficiency of butt-welded joint = 90 percent.

§ 78.293–3 *Material.* (a) All plates for the tank must be of steel to an approved specification. These plates may also be clad with other metals, such as nickel.

(b) All plates must have their heat number and the name or brand of the manufacturer legibly stamped on them at the rolling mill.

§ 78.293–4 *Tank heads.* (a) The tank heads must be hot pressed with a straight flange of at least 1½ inches. The heads must be of one piece, and either torispherical or ellipsoidal, the thickness of which must satisfy the requirements of the appropriate formulas below.

(b) Torispherical heads must be dished to a radius not greater than the inside diameter of tank. The inside knuckle radius must not be less than 6 percent of the diameter of the tank. The thickness of the head shall not be less than that determined by the following formula:

Heads with pressure on concave side;

$$t=\frac{5PL}{6SE}$$

Heads with pressure on convex side;

$$t=\frac{8.35PL}{6SE}$$

where

t = minimum thickness in inches of finished head;
P = minimum bursting pressure = 1,250 pounds per square inch gauge;
S = minimum specified ultimate tensile strength of plate material in pounds per square inch;
L = inside radius of dish;
E = 1.0 for heads made from one plate.

(c) Ellipsoidal heads shall have a ratio of major to minor axis of 2 to 1. The thickness of the heads shall not be less than that determined by the following formula:

Heads with pressure on concave side;

$$t=\frac{Pd}{2SE}$$

Heads with pressure on convex side;

$$t=\frac{1.67Pd}{2SE}$$

where

t = minimum thickness in inches of finished head;
P = minimum bursting pressure = 1,250 pounds per square inch gauge;
S = minimum specified ultimate tensile strength of plate material in pounds per square inch;
d = inside diameter of container in inches;
E = efficiency of butt-welded joint = 1.0 for heads made of one plate.

§ 78.293–5 *Welding.* (a) All joints must be welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proven will produce satisfactory results. Fusion-welding to be performed by fabricators certified by Association of American Railroads as qualified to meet the requirements of this specification. Joints fabricated by means of fusion-welding must be in accordance with the requirements of A. A. R. Welding Code Appendix W, except circumferential welds in tanks less than 36 inches inside diameter need not be radiographed.

§ 78.293–6 *Stress-relieving.* (a) All welding of the tank and attachments welded directly thereto must be stress relieved as a unit in accordance with A. A. R. Welding Code Appendix W.

§ 78.293–7 *Tank mounting.* (a) The manner in which the tanks are supported on and securely attached to the car structure must be approved.

§ 78.293–8 *Protection of fittings.* (a) Tanks must be of such approved design as will afford maximum protection to any fitting or attachment to the head including the housing referred to in § 78.293–9 (a). Tank ends must slope or curve inward toward the axis such that the diameter at the outboard end is at least 2 inches less than the maximum diameter.

§ 78.293–9 *Protective housing and cover.* (a) All operating fittings shall be located in one head. Valves and other closures of openings in tank heads, except fusible plug vents and drain plugs, must be protected against accidental injury by a detachable housing of approved design which must not project beyond the end of the tank and must be securely fastened to the tank head. This housing must be provided with an opening having an area equal to the total safety valve or vent discharge area.

§ 78.293–10 *Venting, loading and unloading valves.* (a) These valves must be of approved type, made of metal not subject to rapid deterioration by lading, and must withstand a pressure of 500 pounds per square inch without leakage. The valves must be screwed directly into tank heads or attached to tank heads by other approved methods. Provision must be made for closing pipe connections of the valves.

§ 78.293–11 *Safety valves or vents.* (a) Unless prohibited for type of service in which tank is used, the tank must be equipped with one or more safety valves or vents of approved type, made of metal not subject to rapid deterioration by the lading and screwed directly into tank heads or attached to tank heads by other approved methods. The total valve or vent discharge capacity must be sufficient to prevent building up pressure in tank in excess of ¾ of the test pressure as calculated by A. A. R. Appendix A. When safety vents of the fusible plug type are used the required discharge capacity must be available in each head.

(b) Safety valves must be set to open and vents of the frangible disc type must function at a pressure of not exceeding 375 pounds per square inch. Vents of the fusible plug type must function at a temperature of not exceeding 175 degrees Fahrenheit. (For tolerance see § 78.293–14.)

§ 78.293–12 *Fixtures.* (a) Siphon pipes and their couplings on the inside of the tank head and lugs on the outside of the tank head for attaching the valve protection housing may be fusion-welded in place, provided they are properly heat treated at the time the entire tank is heat treated. All other fixtures and appurtenances, except as provided for in §§ 78.293–7, 78.293–8, 78.293–9, 78.293–10 and 78.293–11 are prohibited.

§ 78.293–13 *Tests of tank.* (a) After heat treatment, tanks must be subjected to hydrostatic test in a water jacket, or by other accurate method, operated so as to obtain reliable data. No tank shall have been subjected previously to internal pressure within 100 pounds of the test pressure. Each tank must be tested to 500 pounds per square inch. Pressure must be maintained for 30 seconds and sufficiently longer to insure complete expansion of tank. Pressure gauge must permit reading to accuracy of one percent. Expansion gauge must permit reading of total expansion to accuracy of one percent. Expansion must be recorded in cubic centimeters.

(b) Permanent volumetric expansion must not exceed 10 percent of total volumetric expansion at test pressure.

(c) Each finished tank must be subject to interior air pressure test of at least 100 pounds per square inch under conditions favorable to detection of any leakage. No leaks shall appear.

(d) Repairs of leaks detected in manufacture or test must be made by the same process as employed in manufacture of tank. Calking, soldering, or similar repairing is prohibited.

§ 78.293–14 *Tests of safety valves and vents.* (a) Each valve must be tested by air or gas before being put into service and also at intervals as prescribed by retest table No. 2 of § 73.31 (g) (9) of this chapter. The valve must open at a pressure not exceeding 375 pounds per square inch and be vapor tight at 300 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination.

(b) For safety vents of the frangible disc type, a sample of the disc used must burst at a pressure of not exceeding 375 pounds per square inch and be vapor tight at 300 pounds per square inch.

(c) For safety vents of the fusible plug type, a sample of the fusible plugs used must function at a temperature of not exceeding 175 degrees Fahrenheit and vapor tight at a temperature of 130 degrees Fahrenheit.

§ 78.293–15 *Alterations and maintenance of tanks.* (a) All prescribed markings on tanks must be kept legible. Copy of the said markings, in letters and figures of the prescribed size stamped on a brass plate secured to the tank, is authorized. Markings must not be changed except as follows:

(1) By application of additional marks not affecting the test pressure or water capacity; these must not obliterate previously applied marks.

(2) By application of test pressure marks, or alteration of such marks, to indicate a reduced test pressure; authorized only for tanks that have not failed in the 5-year test.

(3) By change of serial numbers or ownership marks, or both, report in sufficient detail so that previous serial number and ownership mark can be determined for each tank arranged by lot numbers or by consecutive serial numbers, must be filed with the Bureau of Explosives.

§ 78.293–16 *Marking.* (a) Each tank must be plainly and permanently marked, thus certifying that the tank complies with all the requirements of this specification. These marks must be stamped into the metal of one head or chime in letters and figures at least ⅜ inch high as follows:

(1) ICC–110A500–W.

(2) Serial number (immediately below the stamped mark specified in subparagraph (1) of this paragraph).

(3) Inspector's official mark (immediately below the stamped mark specified in subparagraph (2) of this paragraph).

(4) Name, mark (other than trademark) or initials of company or persons for whose use the tanks are being made, which must be recorded with the Bureau of Explosives.

(5) Date of tank test (month and year), such as 1–54 for January 1954, so placed that dates of subsequent tests may easily be added thereto.

(6) Water capacity____0000 pounds.

(7) Tanks made of clad plates must be stenciled on the tank (naming material)_____clad tank.

§ 78.293–17 *Inspection and reports.* (a) Purchaser of tank must provide for inspection by competent inspector as follows:

(1) The inspector must carefully inspect all plates for which tanks are to be made and records pertaining thereto, and plates which do not comply with the requirements of this specification must be rejected.

(2) The inspector must secure complete certified records, including chemical analyses and physical tests of samples taken from each heat of steel used in the manufacture of the plate.

(3) The inspector must report capacity in pounds of water and tare weight of each tank, and the minimum thickness of tank wall noted.

(4) The inspector must make such inspection as may be necessary to see that all the requirements of this specification are fully complied with, must see that the finished tanks are properly heat treated, and must witness all air and hydrostatic tests.

(5) The inspector must stamp his official mark on each accepted tank immediately below the serial number and make certified report (see paragraph (b) of this section) to the builder, to the company or person for whose use the tanks are being made, to the builder of the car structure on which the tanks are to be mounted, if any, to the Bureau of Explosives and to the Secretary, Mechanical Division, Association of American Railroads.

(b) Inspector's report required herein must be in the following form:

(Place) _____
(Date) _____

STEEL TANKS

It is hereby certified that drawings were submitted for these tanks under A. A. R. Application for Approval No. _____ and approved by the A. A. R. Committee on Tank Cars under date of _____.
Built for _____ Company
Location at _____
Built by _____ Company
Location at _____
Consigned to _____ Company
Location at _____
Quantity _____
Size ____ inches outside diameter by ____ inches long
Marks stamped into the head or chime of the tank are:
Specification ICC _____
Serial numbers _____ to _____ inclusive.
Inspector's mark _____
Test date _____
Water capacity. (See Record of Hydrostatic Tests.)
Tare weights (Yes or No.) (See Record of Hydrostatic Tests.)
These tanks were made by process of _____

The steel used was identified as indicated by the attached list showing the serial number of each tank, followed by the heat number of the plate, head, and bottom used in the tank.

The steel used was verified as to chemical analysis and record thereof is attached hereto. The heat numbers were stamped into the metal.

All material such as plates, billets, and seamless tubing, was inspected and each tank was inspected both before and after closing in the ends; all that was accepted was found free from seams, cracks, laminations, and other defects which might prove injurious to the strength of the tank. The process of manufacture and heat treatment of tanks were supervised and found to be efficient and satisfactory.

The tank walls were measured and the minimum thickness noted was ____ inch. The outside diameter by a close approximation to be ____ inches. The wall stress was calculated to be ____ pounds per square inch under an internal pressure of ____ pounds per square inch.

Hydrostatic tests, bend and tensile tests of material, and other tests as prescribed in this specification were made in the presence of the inspector and all material and tanks accepted were found to be in compliance with the requirements of this specification. Records thereof are attached hereto.

I hereby certify that all of these tanks proved satisfactory in every way and comply with the requirements of Interstate Commerce Commission Specification No ____.

(Signed) _____
Inspector.

(Place) _____
(Date) _____

RECORD OF CHEMICAL ANALYSIS OF STEEL FOR TANKS

Numbered _____ to _____ inclusive
Size ____ inches outside diameter by ____ inches long
Made by _____ Company
For _____ Company

Heat No.	Chemical analysis						
	C	P	S	Si	Mn	Ni	Cr
----------	--	--	--	--	----	----	----
----------	--	--	--	--	----	----	----
----------	--	--	--	--	----	----	----
----------	--	--	--	--	----	----	----

The analyses were made by:
(Signed) _____

(Place) _____
(Date) _____

RECORD OF TENSILE TESTS OF MATERIAL IN TANKS

Numbered _____ to _____ inclusive
Size _____ inches outside diameter by _____ inches long.
Made by _____ Company
For _____ Company

Heat No.	Yield point (pounds per square inch)	Tensile strength (pounds per square inch)	Elongation (per cent in 8 inches)	Reduction of area (per cent)	Bend test
----	-------	-------	-------	-------	----
----	-------	-------	-------	-------	----
----	-------	-------	-------	-------	----
----	-------	-------	-------	-------	----

(Signed) _____

(Place) _____
(Date) _____

RECORD OF HYDROSTATIC TESTS ON TANKS

Numbered _____ to _____ inclusive
Size _____ inches outside diameter by _____ inches long
Made by _____ Company
For _____ Company

Serial Nos. of tanks tested	Actual test pressure (pounds per square inch)	Total expansion (c. c.)[1]	Permanent expansion (c. c.)[1]	Percent ratio of permanent expansion to total expansion	Tare weight pounds [2]	Capacity in pounds of water at 60° F.
----------	----------	----------	----------	----------	----------	----------
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----------	----------	----------	----------	----------	----------	----------
----------	----------	----------	----------	----------	----------	----------

(Signed) _____

[1] If the tests are made by a method involving the measurement of the amount of liquid forced into the tank by the test pressure then the basic data, on which the calculations are made, such as the pump factors, temperature of liquid, coefficient of compressibility of liquid, etc., must also be given.
[2] Do not include protective housing and cover but state whether with or without valves.

(c) Before a tank car built under this specification is placed in service, the builder must furnish the owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in proper form certifying that the tank and its appurtenances comply with all the requirements of this specification, including information as to the serial numbers, date of test, and ownership marks on the tanks. In the event the owner of the tank instead of the builder elects to furnish appurtenances such as valve protection caps, loading and unloading valves or vents of the frangible disc or fusible plug type, the owner must furnish to the Bureau of Explosives and the Secretary, Mechanical Division, Association of American Railroads, a report in proper form certifying that these appurtenances comply with all the requirements of this specification.

(d) In case of alterations of or additions to tank or equipment from original design and construction or of repairs, there must be furnished to the owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in detail of the repairs, alterations or additions made to each tank covered by a particular application, showing the serial number of each tank involved and stating that heat treatment called for by the particular type of repair authorized has been performed and that after repairs, alterations, or additions, the tests prescribed in § 78.293–13 were made, results of hydrostatic tests reported, and tank marked as prescribed by retest Table No. 2 of § 73.31 (g) (9) of this chapter.

15. In § 78.296–4 amend the introductory text of paragraph (b) (21 F. R. 4617, June 26, 1956) to read as follows:

§ 78.296 *Specification ICC–103B100–W; rubber lined fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.296–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

16. In § 78.297–4 amend the introductory text of paragraph (b); in § 78.297–14 amend paragraph (d) (21 F. R. 4619, 4620, June 26, 1956) to read as follows:

§ 78.297 *Specification ICC–103D–W; fusion-welded alloy steel tanks to be mounted on or forming part of a car.*

§ 78.297–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.297–14 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

17. In § 78.298–4 amend the introductory text of paragraph (b) (21 F. R. 4621, June 26, 1956) to read as follows:

§ 78.298 *Specification ICC–103E–W; fusion-welded alloy steel tanks to be mounted on or forming part of a car.*

§ 78.298–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

18. In § 78.299–4 amend the introductory text of paragraph (b) (21 F. R. 4623, June 26, 1956) to read as follows:

§ 78.299 *Specification ICC–103A–N–W; fusion-welded nickel or nickel alloy tanks to be mounted on or forming part of a car.*

§ 78.299–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

19. In § 78.303–16 amend paragraph (d) (22 F. R. 3674, May 24, 1957) to read as follows:

§ 78.303 *Specification ICC–111A100–W–1; fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.303–16 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

20. In § 78.305–16 amend paragraph (d) (22 F. R. 3678, May 24, 1957) to read as follows:

§ 78.305 *Specification ICC–111A100–W–3; fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.305–16 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

21. In § 78.307–4 amend the introductory text of paragraph (b) (22 F. R. 3680, May 24, 1957) to read as follows:

§ 78.307 *Specification ICC–105A200–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.307–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

SUBPART J—SPECIFICATIONS FOR CONTAINERS FOR MOTOR VEHICLE TRANSPORTATION

1. In § 78.321–9 amend paragraph (a) (15 F. R. 8545, Dec. 2, 1950) to read as follows:

§ 78.321 *Specification MC300; cargo tanks constructed of mild (open hearth or blue annealed) steel, or combination of mild steel with high-tensile steel, or of stainless steel.*

§ 78.321–9 *Test for leaks.* (a) Every cargo tank shall be tested by a minimum air or hydrostatic pressure of 3 pounds per square inch gauge applied to the whole tank and dome if it be non-compartmented. If compartmented, each individual compartment shall be similarly tested with adjacent compartments empty and at atmospheric pressure. Air pressure, if used, shall be maintained for a period of at least five minutes during which the entire surface of all joints under pressure shall be coated with a solution of soap and water, heavy oil, or other material suitable for the purpose, foaming or bubbling of which indicates the presence of leaks. Hydrostatic pressure, if used, shall be done by using water or other liquid having a similar viscosity, the temperature of which shall not exceed 100° F. during the test, and applying pressure as prescribed above, gauged at the top of the tank, at which time all joints under pressure shall be inspected for the issuance of liquid to indicate leaks. All closures shall be in place while test by either method is made. During these tests, operative relief devices shall be clamped, plugged, or otherwise rendered inoperative; such clamps, plugs, and similar devices shall be removed immediately after the test is finished. Any leakage discovered by either of the methods above described, or by any other method, shall be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass this test shall be suitably repaired, and the above described tests shall be continued until no leaks are discovered, before any cargo tank is put into service.

* * * * *

2. In § 78.322–9 amend paragraph (a) (15 F. R. 8547, Dec. 2, 1950) to read as follows:

§ 78.322 *Specification MC 301; cargo tanks constructed of welded aluminum alloy (Grade 3S).*

§ 78.322–9 *Test for leaks.* (a) Every cargo tank shall be tested by a minimum air or hydrostatic pressure of 3 pounds per square inch gauge applied to the whole tank and dome if it be non-compartmented. If compartmented, each individual compartment shall be similarly tested with adjacent compartments empty and at atmospheric pressure. Air pressure, if used, shall be maintained for a period of at least five minutes during which the entire surface of all joints under pressure shall be coated with a solution of soap and water, heavy oil, or other material suitable for the purpose, foaming or bubbling of which indicates the presence of leaks. Hydrostatic pressure, if used, shall be done by using water or other liquid having a similar viscosity, the temperature of which shall not exceed 100° F. during the test, and applying pressure as prescribed above, gauged at the top of the tank, at which time all joints under pressure shall be inspected for the issuance of liquid to indicate leaks. All closures shall be in place while test by either method is made. During these tests, operative relief devices shall be clamped, plugged, or otherwise rendered inoperative; such clamps, plugs, and similar devices shall be removed immediately after the test is finished. Any leakage discovered by either of the methods above described, or by any other method, shall be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass this test shall be suitably repaired, and the above described tests shall be continued until no leaks are discovered, before any cargo tank is put into service.

* * * * *

3. In § 78.323–5 paragraph (a) amend the 20th line which now reads "IC MC * * *" to read "ICC MC * * *"; in § 78.323–9 amend paragraph (a) (15 F. R. 8549, 8550, Dec. 2, 1950) to read as follows:

§ 78.323 *Specification MC 302; cargo tanks constructed of welded aluminum alloy (ASTM B178–54).*

§ 78.323–9 *Test for leaks.* (a) Every cargo tank shall be tested by a minimum air or hydrostatic pressure of 3 pounds per square inch gauge applied to the whole tank and dome if it be non-compartmented. If compartmented, each individual compartment shall be similarly tested with adjacent compartments empty and at atmospheric pressure. Air pressure, if used, shall be maintained for a period of at least five minutes during which the entire surface of all joints under pressure shall be coated with a solution of soap and water, heavy oil, or other material suitable for the purpose, foaming or bubbling of which indicates the presence of leaks. Hydrostatic pressure, if used, shall be done by using water or other liquid having a similar viscosity, the temperature of which shall not exceed 100° F. during the test, and applying pressure as prescribed above, gauged at the top of the tank, at which time all joints under pressure shall be inspected for the issuance of liquid to indicate leaks. All closures shall be in place while test by either

method is made. During these tests, operative relief devices shall be clamped, plugged, or otherwise rendered inoperative; such clamps, plugs, and similar devices shall be removed immediately after the test is finished. Any leakage discovered by either of the methods above described, or by any other method, shall be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass this test shall be suitably repaired, and the above described tests shall be continued until no leaks are discovered, before any cargo tank is put into service.

* * * * *

4. In § 78.324–9 amend paragraph (a) (15 F. R. 8552, Dec. 2, 1950) to read as follows:

§ 78.324 *Specification MC 303; cargo tanks constructed of welded ferrous alloy (high-tensile steel) or stainless steel.*

§ 78.324–9 *Test for leaks.* (a) Every cargo tank shall be tested by a minimum air or hydrostatic pressure of 3 pounds per square inch gauge applied to the whole tank and dome if it be non-compartmented. If compartmented, each individual compartment shall be similarly tested with adjacent compartments empty and at atmospheric pressure. Air pressure, if used, shall be maintained for a period of at least five minutes during which the entire surface of all joints under pressure shall be coated with a solution of soap and water, heavy oil, or other material suitable for the purpose, foaming or bubbling of which indicates the presence of leaks. Hydrostatic pressure, if used, shall be done by using water or other liquid having a similar viscosity, the temperature of which shall not exceed 100° F. during the test, and applying pressure as prescribed above, gauged at the top of the tank, at which time all joints under pressure shall be inspected for the issuance of liquid to indicate leaks. All closures shall be in place while test by either method is made. During these tests, operative relief devices shall be clamped, plugged, or otherwise rendered inoperative; such clamps, plugs, and similar devices shall be removed immediately after the test is finished. Any leakage discovered by either of the methods above described, or by any other method, shall be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass this test shall be suitably repaired, and the above described tests shall be continued until no leaks are discovered, before any cargo tank is put into service.

* * * * *

5. In § 78.330–14 amend paragraph (a) (15 F. R. 8555, Dec. 2, 1950) to read as follows:

§ 78.330 *Specification MC 310; cargo tanks.*

§ 78.330–14 *Tank outlets*—(a) *No bottom outlets.* Except as provided hereinafter, no cargo tanks, except those used for the shipments of sludge acid or alkaline corrosive liquids, shall have bottom discharge outlets; outlets leaving the cargo tank at or near the top but having the end of the outlet below the top liquid level shall not be considered as bottom outlets but such outlets must be equipped with a shut-off valve at the point of outlet from the cargo tank and a shut-off valve or a blank flange or screw-on cap at the discharge end of the outlet and must not be moved with any of the contents in the line beyond the point where it leaves the cargo tank. The valve at the tank shall be protected against damage in the event of overturn. Cargo tanks used for the transportation of sludge acid and/or alkaline corrosive liquids may be equipped with bottom outlets when the products to be transported are too viscous to be unloaded through a dome connection or top outlet provided such bottom outlets are equipped with an effective and reliable shut-off valve located inside the shell of the tank, tank compartment outlet, or sump if the sump is integral with the tank.

* * * * *

6. In § 78.331–11 amend paragraph (a) (18 F. R. 6784, Oct. 27, 1953) to read as follows:

§ 78.331 *Specification MC 311; cargo tanks.*

§ 78.331–11 *Tank outlets*—(a) *No bottom outlets.* Except as provided hereinafter, no cargo tanks, except those used for the shipments of sludge acid or alkaline corrosive liquids, shall have bottom discharge outlets; outlets leaving the cargo tank at or near the top but having the end of the outlet below the top liquid level shall not be considered as bottom outlets but such outlets must be equipped with a shut-off valve at the point of outlet from the cargo tank and a shut-off valve or a blank flange or screw-on cap at the discharge end of the outlet and must not be moved with any of the contents in the line beyond the point where it leaves the cargo tank. The valve at the tank shall be protected against damage in the event of overturn. Cargo tanks used for the transportation of sludge acid and/or alkaline corrosive liquids may be equipped with bottom outlets when the products to be transported are too viscous to be unloaded through a dome connection or top outlet provided such bottom outlets are equipped with an effective and reliable shut-off valve located inside the shell of the tank, tank compartment outlet, or sump if the sump is integral with the tank.

* * * * *

APPENDIX

Section, Paragraph, and Reason for Amendment

72.5; (a) Commodity List; Provides amendments and additions to keep commodity list on a current basis.

73.31; (a) table; Notes 11 and 12; Deletes a provision pertaining to safety vents on certain tank cars which is inconsistent with the requirement in the specifications for tank cars.

73.31; (k); Provides for the loading of tank cars equipped with inoperative heater coils.

73.101; (a); Provides for the shipment of small-arms ammunition in metal clips without the need for inside boxes.

73.118; (c) (25); To make consistent with the shipping name adopted for dimethylhydrazine, unsymmetrical.

73.132; (a); Provides for the use of additional containers for liquid cement, n. o. s.

73.153; (b); Clarifies the exemption requirements for liquid or solid organic peroxides.

73.157; (a) (3); Provides spec. 12B fiberboard box for certain peroxides.

73.234; (a) (4); Provides spec. 37A metal drums for sodium nitrite.

73.245; (a) (18); Provides spec. 12A fiberboard box for acids or other corrosive liquids not specifically provided for.

73.247; (a) (6) Note 1; Provides for the use of certain 99% pure nickel tank cars for benzyl chloride service.

73.252; (a) (4); Provides for the transportation of bromine in spec. MC 310 cargo tanks.

73.257; (a) (11); Provides for the shipment of electrolyte (acid) or corrosive battery fluid in spec. 12A fiberboard box.

73.258; (a) (2); Provides certain packaging requirements for shipments of electrolyte, acid, or alkaline corrosive battery fluid, packed with storage batteries by the military.

73.258; (a) (3); Provides for the shipment of electrolyte, acid, or alkaline corrosive battery fluid in spec. 12B fiberboard box.

73.260; (c) (1), (2); Provides for the use of a new type cover-liner for electric storage batteries, wet.

73.262; (a) (7); Provides for the shipment of hydrobromic acid in spec. 12A fiberboard box.

73.263; (a) (16); Provides for the shipment of certain acids in spec. 12A fiberboard box.

73.272; (c) (6); Provides for the shipment of sulfuric acid in spec. 12A fiberboard box.

73.289; (a) (12); Provides for the shipment of formic acid and formic acid solutions in spec. 12A fiberboard box.

73.308; (a) Note 5; Provides an additional means of packaging mining devices.

73.312; (a) (1); Provides for the use of spec. 4E aluminum cylinder for liquefied petroleum gas.

73.314; (a) table; Provides for the use of additional tank cars for certain compressed gases.

73.314; (a) Note 2; Authorizes the use of spec. 109A–AL–W tank cars having higher marked test pressure than those prescribed of this class.

73.314; (a) Note 3 (a); Clarifies the type of tank cars to which the filling densities for liquefied petroleum gas or butadiene are applicable.

73.314; (a) Note 3 (b); Eliminates reference to the war and postwar emergency period and stipulates that storage in transit is not permitted under these provisions.

73.314; (a) Note 3 (c), (d); Provides maximum permitted filling densities in unlagged single-unit tank cars transporting liquefied petroleum gas.

73.314; (a) Note 21; Provides for filling densities and transportation of anhydrous ammonia in uninsulated tank cars.

73.314; (b); Provides gas pressure limitation in spec. 109A300AL–W tank cars.

73.314; (c); Specifies that the liquid portion of the gas at 115° F. must not completely fill an unlagged tank of spec. 112A400–W.

73.315; (a) (1) table, (h) table, (i) (2) table; Provides for the transportation of vinyl chloride, inhibited in spec. MC 330 cargo tanks.

73.346; (a) (16), (17); Provides for the shipment of poisonous liquids, n. o. s. in spec. 42B, 42C, 42D or 42E aluminum drums.

73.354; (a) (5) and Note 1; Reinstates the restriction against transporting tetraethyl lead in MC 330 cargo tanks which had been erroneously deleted.

73.369; (a) (14); Provides for the transportation of carbolic acid (phenol), not liquid in spec. MC 310 or MC 311 cargo tanks.

73.414; (a); To correct a printing error.

73.432; (e) Note 2; Clarification in that other compressed gases besides chlorine are also handled in ton containers unloaded on carrier property.

74.526; (n), (1), (2); Permits the use of portable containers other than metal and requires that all portable containers be of a type approved by the Bureau of Explosives.

74.538; (a) chart footnote e; Permits the loading of ammonium nitrate, fertilizer grade in the same car with high explosives.

74.549; (h); Clarifies the requirement pertaining to the visibility of placards on trailers on flat cars.

74.553; (a); To make consistent with § 74.589 (n).

74.560; (b) (2) Note 2; Clarification in that other compressed gases besides chlorine are also handled in ton containers unloaded on carrier property.

77.848; (a) chart, and footnote e; To correct an omission; permits the loading of ammonium nitrate, fertilizer grade in the same motor vehicle with high explosives.

78.1–3; (a); Requires vented closures on spec. 1A carboys to avoid excess internal pressure.

78.3–3; (a); Reason for § 78.1–3 applies also to spec. 1C.

78.4–6; (c); Prohibits attachment of spec. 1D box tops by friction.

78.5–2; (a); Reason for § 78.1–3 applies also to spec. 1X.

78.6–3; (a); Reason for § 78.1–3 applies also to spec. 1EX.

78.7–4; (b); Reason for § 78.1–3 applies also to spec. 1E.

78.10–6; (a); Clarifies failure conditions in testing spec. 1F polyethylene carboys in plywood drums.

78.68; Entire section; Provides for the construction of new specification 4E aluminum cylinder.

78.131–6; (a) table; To correct an omission; to provide for the construction of spec. 37A steel drums as specified for certain commodities.

78.205–33; (a); Provides for the construction of additional special box of spec. 12B fiberboard box.

78.210; Entire section; Provides for the construction of new spec. 12A fiberboard box.

78.219–5; (a), (b), (c); Authorizes the use of additional tapes of equivalent strength for closing spec. 23H fiberboard box.

78.265–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103 tank.

78.265–13; (d); Provides for threaded cap closure arrangement or bolted flange closure arrangement on the outlet nozzle of spec. 103 tank car.

78.266–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103A tank.

78.267–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103B tank.

78.267–14; (b); Provides for the use of safety vents made of materials other than rubber-lined steel on spec. 103B tank cars.

78.269–4; (b); Provides for a slight tolerance in the inside diameter of spec. 104 tank.

78.269–13; (d); Reason for § 78.265–13 applies also to spec. 104 tank car.

78.270–4; (b); Provides for a slight tolerance in the inside diameter of spec. 105A100 tank.

78.280–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103–W tank.

78.280–15; (d); Reason for § 78.265–13 applies also to spec. 103–W tank car.

78.281–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103A–W tank.

78.282–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103B–W tank.

78.282–15; (b); Provides for the use of safety vents made of material other than rubber-lined steel on spec. 103B–W tank cars.

78.283–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103C–W tank.

78.284–4; (b); Provides for a slight tolerance in the inside diameter of spec. 104–W tank.

78.284–15; (d); Reason for § 78.265–13 applies also to spec. 104–W tank.

78.285–4; (b); Provides for a slight tolerance in the inside diameter of spec. 105A100–W tank.

78.291–4; (e); Provides for interior compartment heads in spec. 103AL–W tank cars.

78.291–14; (d); Reason for § 78.265–13 applies also to spec. 103AL–W tank car.

78.292–4; (e); Provides for interior compartment heads in spec. 103A–AL–W tank cars.

78.293; Entire section; Provides for the fabrication of spec. 110A500–W tank without the necessity of radiographing circumferential head seams and permits head thickness to be calculated under the formula using 100% as efficiency.

78.296–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103B100–W tank.

78.297–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103D–W tank.

78.297–14; (d); Reason for § 78.265–13 applies also to spec 103D–W tank car.

78.298–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103E–W tank.

78.299–4; (b); Provides for a slight tolerance in the inside diameter of spec. 103A–N–W tank.

78.303–16; (d); Reason for § 78.265–13 applies also to spec. 111A100–W–1 tank car.

78.305–16; (d); Reason for § 78.265–13 applies also to spec. 111A100–W–3 tank car.

78.307–4; (b); Provides for a slight tolerance in the inside diameter of spec. 105A200–W tank.

78.321–9; (a); Requires the testing of each compartment individually when spec. MC 300 cargo tank is divided into compartments.

78.322–9; (a); Reason for § 78.321–9 (a) applies to spec. MC 301 cargo tank.

78.323–5; (a)—78.323–9; (a) To correct an erroneous marking requirement; reason for § 78.321–9 (a) applies to spec. MC 302 cargo tank.

78.324–9; (a); Reason for § 78.321–9 (a) applies to spec. MC 303 cargo tank.

78.330–14; (a); Provides for the use of a blank flange or screw-on cap at discharge end of outlet on spec. MC 310 cargo tank.

78.331–11; (a); Reason for § 78.330–14 (a) applies to spec. MC 311 cargo tank.

[F. R. Doc. 57–6399; Filed, Aug. 7, 1957; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 12133; FCC 57–885]

RADIO BROADCAST SERVICES

ANTENNA SYSTEMS AND ENGINEERING CHARTS FOR FM BROADCAST STATIONS

In the matter of amendment of §§ 3.316 and 3.333 of the Commission's rules relating to antenna systems and engineering charts for FM Broadcast Stations; Docket No. 12133.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it a petition filed on April 26, 1957, by James C. McNary, a consulting engineer in Washington, D. C., for amendment of §§ 3.316 and 3.333 of the rules to authorize FM broadcast stations to employ antenna systems utilizing either horizontal or vertical polarization.

3. The Rules presently provide that FM broadcast stations shall employ horizontal polarization, but provision is made for circular or elliptical polarization, if desired, provided the supplemental vertically polarized effective radiated power required for circular or elliptical polarization does not exceed the authorized effective radiated power.

4. Petitioner notes that FM broadcast receivers are now being employed in automobiles but that vertical whip antennas are normally used in conjunction with automobile installations. He notes since all, or practically all, FM stations transmit horizontally polarized waves, the cross-polarization of the transmitting and receiving antennas does not achieve optimum reception. He urges that FM reception in automobiles would be benefited by vertical polarization of the transmitted wave since the field intensity at low levels above ground would be greater and the use of the same polarization at both the transmitter and receiver would mean a relatively greater signal at the receiver.

5. McNary proposes that § 3.316 of the rules relating to FM antenna systems be amended so as to permit either horizontal or vertical polarization. He suggests, also, that a new chart be added to § 3.333, setting forth the ground wave signal range for use with antenna systems employing vertical polarization.

6. The Commission is of the view that rule making should be instituted in this matter in order that interested parties may submit comments and relevant data with respect to the proposal to provide for vertical polarization in addition to the types of polarization presently authorized. Parties filing comments are requested to direct their attention to the following:

(a) Whether and to what extent adoption of the proposed amendments would affect existing FM reception.

(b) Whether or not Figure 1 of § 3.333 of the rules should be utilized for both horizontal and vertical polarization, or whether a separate figure should be prepared for use with vertical polarization.

7. Any interested party who is of the view that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before October 1, a written statement or brief setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 20 days from the last day for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing

of such additional comments is established.

8. Authority for the adoption of the amendments proposed herein is contained in sections 1, 4 (i), 301, 303 (a), (b), (c), (d), (e), (f), (g), (h) and (r) of the Communications Act of 1934, as amended.

9. In accordance with the provisions of § 1.764 of the Commission's rules and regulations an original and 14 copies of all statements, briefs or comments shall be furnished the Commission.

Adopted: August 1, 1957.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6486; Filed, Aug. 7, 1957; 8:52 a. m.]

[47 CFR Part 4]

[Docket No. 12006; FCC 57-886]

EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST SERVICES

TELEVISION BROADCAST TRANSLATOR STATIONS

In the matter of amendment of Part 4 of the Commission's rules and regulations relating to Television Broadcast Translator Stations; Docket No. 12006.

1. The Commission has under consideration its Notice of Proposed Rule Making (FCC 57-409), released in this proceeding on April 29, 1957, proposing to amend Part 4 of the rules and regulations governing television broadcast translator stations so as to limit the authorization of translators to communities and areas in which a regularly assigned television broadcast station is not operating and to require translators to cease operation upon the commencement of operation by a regularly authorized station in the community or area.

2. Comments in support of the proposal were filed by: Lewiston TV Co., KLEW-TV, Lewiston, Idaho; James E. Peaden, Blythe, California; Television Montana, Inc., KXLF-TV, Butte, Montana; South West Oregon Television Broadcasting Corporation, KPIC, Roseburg, Oregon; Frontier Broadcasting Company, KFBC-TV, Cheyenne, Wyoming; Farmington Broadcasting Company, Farmington, New Mexico; California-Oregon Television, Inc., KBES-TV, Medford, Oregon; KOTI-TV, Klamath Falls, Oregon; KLEM-TV, Eureka, California; Rollins Broadcasting-Telecasting of New York, Inc.; WPTZ, North Pole, N. Y.; and Gila Broadcasting Company, Globe, Arizona. A joint opposition was filed by WDSU Broadcasting Company, WDSU-TV, New Orleans, Louisiana; Joe L. Smith, Jr., Inc., WKNA-TV, Charleston, West Virginia; Lion Television Corporation, WDAM-TV, Hattiesburg, Mississippi; The Evening News Association, WWJ-TV, Detroit, Michigan; Murray Carpenter & Associates, WTWO, Bangor, Maine; Southwest States, Inc.; WMBD, Inc.; Modern Broadcasting Co. of Baton Rouge, Inc., WAFB-TV, Baton Rouge, Louisiana; WKY Television, Inc. WKY-TV, Oklahoma City, Oklahoma; WSFA-TV, Montgomery, Alabama; WTVT, Tampa, Florida and Lee Radio Corporation, KGLO-TV, Mason City, Iowa. Comments opposing the proposed amendment were filed by: Needles Community Television Club, Needles, California; Video Utility Co., Spokane, Washington; Mr. Kenneth F. Barneburg, County School Supt., Douglas County, Roseburg, Oregon; Benton County TV Association, West Richland, Washington; Joplin TV Club, Inc. Joplin, Montana; San Juan Non-Profit TV Association, Farmington, New Mexico; Parker Chamber of Commerce Inc., Parker, Arizona; Chamber of Commerce, Cortez, Colorado; Orchards Community Television Association, Inc., Lewiston, Idaho; Ignacio Television Committee, Ignacio, Colorado; La Plata Electric Association, Durango, Colorado; Community Television Project, Globe-Miami, Arizona; Palo Verde Valley TV Club, Blythe, California; Radio Service Corporation of Utah, KSL-TV, Salt Lake City, Utah; Prairie Television Company, WTVP, Decatur, Illinois; KVOS, Inc., KVOS-TV, Bellingham, Washington; Southwestern Radio and Television Company, KFSA-TV, Forth Smith, Arkansas; Great Lakes Television Company, WSEE, Erie, Pennsylvania; Pioneer Broadcasting Company, KGW-TV, Portland, Oregon; Committee for Competitive Television; TV Denver, Inc., KBTV, Denver, Colorado; King Broadcasting Company, KING-TV, Seattle, Washington; Tupelo Citizens Television Company, WTWV, Tupelo, Mississippi; Meredith Syracuse Television Corporation, WHEN-TV, Syracuse, N. Y.; Meredith Engineering Company, KCMO-TV, Kansas City, Missouri; KPHO-TV, Phoenix, Arizona; Meredith WOW, Inc., WOW-TV, Omaha, Nebraska; Odessa Television Company, KOSA-TV, Odessa, Texas; Adler Electronics, Inc., New Rochelle, New York; Conewango Valley Television Inc.; Paramount Agencies, Spokane, Washington; Springfield Television Broadcasting Corporation, Springfield, Massachusetts; Nevada Radio-Television, Inc., KOLO-TV, Reno, Nevada; Industrial Television, Los Angeles, California; Union County Farm Bureau, La Grande, Oregon; Teleservice Company, Roseburg, Oregon; Southwestern Publishing Co., Inc., KLRJ-TV, Henderson, Nevada; Wabash Valley Broadcasting Corporation, WTHI-TV, Terre Haute, Indiana; Sir Walter Television Company, WNAO-TV, Raleigh, North Carolina; Golden Empire Broadcasting Co., KHSL-TV, Chico, California; The Channel 7 Company, KLTV, Tyler, Texas; National Broadcasting Company, Inc.; Grande Ronde Television Association, La Grande, Oregon and TV, Inc., Denver, Colorado. A great many letters, the great majority of which opposed the amendment, were also received.

3. In view of the large number of comments filed and the duplication of contentions of the various parties, the comments will be generally discussed without reference to the particular parties. The parties supporting the proposed amendment urge that the "translator principle" is commendable where no other type of service exists or where the community to be served is too small to expect any local service and an established television station is not placed in jeopardy. They argue that regular television stations in marginal markets cannot compete successfully for viewers against the combination of community antenna systems and low-cost translator stations; that the primary danger to the establishment and continuance of regular television broadcast stations is that translator stations ordinarily rebroadcast the signals of one or more metropolitan stations, which carry network programs not available to the same extent to the local television station, thereby forcing the local station to compete with the distant metropolitan station. They contend that translator stations serve only a center of population and are unable to serve he surrounding rural areas; that translator service to the center of population is ordinarily sufficient to make the operation of a regular television station in the same general area economically unfeasible and thus prevent the authorization of a regular station which would provide a local outlet of self expression and television service to the residents of rural areas. Several of the parties suggest that the rules should be further amended to define a "local television broadcast station" as a station whose Grade B contour encloses all or a portion of the area served or to be served by a proposed translator station and to provide that translator stations may retransmit only the signal of local television broadcast stations unless no local television broadcast station exists which will consent to the rebroadcast of its programs. Other parties urge that the authorization of translator stations should be limited to locations outside the Grade B contours of regularly assigned television stations.

4. The parties opposed to the adoption of the proposed amendments argue that all communities, irrespective of size, are entitled to a choice of programs and should not be restricted to a single program source. They contend that if additional program sources are available, the residents of communities in which there is only one operating station will find a means of providing these additional signals to the community, either by unlicensed VHF boosters or a cable system. The parties allege that translator operations are not competitive with regular television broadcast stations but are, in fact, complementary; that in communities with a single operating station, set saturation normally does not exceed 50 percent but the addition of a second or third program source in such small communities may actually assure set saturation of almost 100 percent; so that although the audience may be divided between the translators and the regular television station, the latter has an opportunity to compete for a larger audience and its chances for survival may be considerably greater than without the translator. They maintain that most of the communities in which a regular television station might be established are already served by some type of cable system which provides network program-

ming and can sell local advertising; that removing translators from such communities would not materially enhance the local television station's chances of survival but would encourage the enlargement of the cable systems and the "bootlegging" of signals to the community by means of boosters. The opponents point out that if the proposed rules are adopted, some areas which had previously received a multiplicity of program sources through translators would be limited to a single program source with a concentration of locally originated broadcasts, particularly if the newly established station is unable to obtain network programming, and other areas with unusually rough terrain would actually lose service since a local television station would not have the same coverage as multiple translator stations. The opponents contend that the amendments would serve only to protect marginal television operators, unable or unwilling to provide adequate service; that a rule designed to protect local television stations is inconsistent with the Commission's decision in the Southeastern Enterprises case, in which the Commission determined that it had no authority to consider the effect of competition on local broadcast stations; and that competition from translators would provide an incentive for local stations to improve the quality of their programming. They submit that adoption of the amendments will seriously discourage the installation or expansion of translator facilities and will provide a means whereby local cable systems can prevent the installation of competitive translator stations by applying for authority to build a local television station which would not compete with their wired service. Finally, it is urged that there is too great a variance among the communities in which translators might be established with respect to their ability to support a local television station, the feasibility of translator installations, the availability of network programs and numerous other factors, to apply an absolute, across-the-board rule as proposed in the amendments. It is suggested that the many problems involved can be better resolved on a case-by-case basis.[1]

5. We recognized in our Report and Order authorizing translators the possibility that translators may be employed to compete with regularly established stations. We noted that translators are intended primarily to provide a means whereby television can be brought to areas without service; but, we noted, also, that they could be employed to bring multiple services to communities too small to support several stations on a regular basis. We were aware that the use of translators in competition with regular stations raised a number of very serious questions, but we did not believe at that time that a universal, hard-and-fast rule governing all such situations should be adopted and we concluded that the problems could be more appropriately considered on a case-by-case basis as they arise.

6. In our Notice of Rule Making in this proceeding, however, we indicated our intention to explore, in a rule making proceeding, the possibility of adopting a rule which would preclude translators, in all cases, from communities and areas with regularly authorized television stations and which would require translators to cease operation after a regular station goes on the air in the same community or area. We have carefully reviewed and evaluated the numerous comments submitted in this proceeding. Upon this study and further consideration of the problem we have now concluded that the judgment expressed in our Report and Order authorizing translators was sound, i. e., that the problem of translators operating in competition with regularly assigned television stations is a complex one which can more appropriately be considered in the context of the particular facts of each case. We are aware, as we noted in our Report and Order, that the competition of a translator may present a serious problem to a struggling television station in the community. However, we can envisage situations in which a translator might operate in the community or a nearby community without adversely affecting the regular television station. We doubt the efficacy, therefore, of a universal rule which would automatically preclude translators in all cases from competing with a regular station. Rather, we think the question of translators in communities and areas with regularly assigned stations should be considered in light of such factors as the terrain in the area, the existence of a community antenna system, the type of regularly authorized television station, i. e., satellite, non-network, etc., the coverage of the proposed stations, the economic factors, the distance of the translator from the regular station, etc. Such factors as these, we believe, should be thoroughly considered in the context of each case before determining whether a translator should be disallowed. We feel that such a procedure represents a more effective means of dealing with the problem and will enable us better to determine, in light of the particular circumstances, whether the advent of a translator will, in fact, deter the establishment and growth of a local television station. For this reason, we do not believe that the public interest would be served by adopting the proposed amendments.

6. In view of the foregoing: *It is ordered*, That the proposed amendment is not adopted and that this proceeding is terminated.

Adopted: August 1, 1957.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6487; Filed, Aug. 7, 1957; 8:52 a. m.]

[1] JCET states that it has no objection to the Commission's proposal insofar as commercial television stations are concerned, but urges that the policy should not apply to non-commercial educational television service.

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Document 155]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JULY 31, 1957.

The United States Forest Service has filed an application, Serial No. AR-06719, for the withdrawal of the lands described below, from all forms of appropriation including the mining and mineral leasing laws.

The applicant desires the land for a lookout station.

For a period of thirty (30) days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Post Office Box No. 148, Phoenix, Arizona.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

GILA AND SALT RIVER MERIDIAN

T. 14 N., R. 11 E.
Sec. 27: SE¼SW¼SE¼, SW¼SE¼SE¼

The area described totals 20 acres in the Coconino National Forest.

E. I. ROWLAND,
State Supervisor.

[F. R. Doc. 57-6461; Filed, Aug. 7, 1957; 8:46 a. m.]

NEVADA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JULY 31, 1957.

The Corps of Army Engineers, U. S. Army has filed applications Serial Num-

bers Nevada 013137 and Nevada 014602 for the withdrawal of the lands described below, from all forms of appropriation and use including mineral leasing and mining. The applicant desires the lands for use as an extension to Nellis Air Force Base Storage Depot.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, P. O. Box 1551, Reno, Nevada. If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary of the Interior on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 19 S., R. 62 E.,
Sec. 25, S½;
Sec. 36, W½.
T. 20 S., R. 62 E.,
Sec. 1, Lots 3 and 4.
T. 19 S., R. 63 E.
Sec. 27, SW¼;
Sec. 30, SW¼.

Total acreage is 997.85.

E. R. GREENSLET,
State Supervisor,
P. O. Box 1551,
Reno, Nevada.

[F. R. Doc. 57-6462; Filed, Aug. 7, 1957; 8:47 a. m.]

Geological Survey

COLORADO, NEVADA, NEW MEXICO, UTAH, WYOMING

DEFINITION OF KNOWN GEOLOGIC STRUCTURES OF PRODUCING OIL AND GAS FIELDS

Former paragraph (c) of § 227.0, Part 227, Title 30, Chapter II Code of Federal Regulations (1947 Supp.), codification of which has been discontinued by a document published in Part II of the FEDERAL REGISTER dated December 31, 1948, is hereby supplemented by the addition of the following list of structures defined effective as of the dates shown.

Name of Field, Effective Date, and Acreage

(2) COLORADO

Danforth Hills; June 11, 1957; 480.

(4b) NEVADA

Eagle Springs; April 17, 1957; 1,280.

(5) NEW MEXICO

Bisti; June 18, 1957; 28,014.

(8) UTAH

Bluff; April 17, 1957; 360.
Chapita Wells; June 11, 1957; 360.
Jack Canyon; April 25, 1957; 2,279.
Joe's Valley (Revision); April 19, 1957; 4,225.
Peter's Point; April 25, 1957; 4,440.
Recapture Creek; April 25, 1957; 760.
Red Wash; June 18, 1957; 29,353.

(9) WYOMING

Big Piney (Revision); May 8, 1957; 19,947.
Bison Basin (Revision); April 25, 1957; 1,000.
Clark Ranch; June 11, 1957; 781.
Gooseberry; June 11, 1957; 919.
Gooseberry Northeast; June 11, 1957; 640.
Grieve; June 11, 1957; 1,880.
Hogsback; May 28, 1957; 8,790.
Manderson (Revision); May 3, 1957; 12,453.
Osage (Revision); May 15, 1957; 16,843.
Pinedale; May 29, 1957; 41,271.
South Elk Basin (Revision); April 19, 1957; 2,320.
Sussex-Meodaw Creek (Revision & Consolidation); June 20, 1957; 13,611.
Tip Top (Revision); May 27, 1957; 18,495.

ARTHUR A. BAKER,
Acting Director.

AUGUST 1, 1957.

[F. R. Doc. 57-6458; Filed, Aug. 7, 1957; 8:46 a. m.]

National Park Service

[Region One, Order 3, Amdt. 3]

SUPERINTENDENTS

DELEGATION OF AUTHORITY

1. A new paragraph (g) and reading as follows, is added to section 1:

(g) Periodic inspection of properties transferred to State and local agencies for park, recreation, and historic monument purposes pursuant to the act of June 10, 1948 (62 Stat. 350, 50 U. S. C., 1952 ed., section 1622 (h)), and the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended (40 U. S. C., 1952 ed., section 484), and review of the grantees' biennial reports and their acceptance when satisfactory.

2. A new paragraph (h) and reading as follows, is added to section 2:

(h) Periodic inspection of properties transferred to State and local agencies for park, recreation, and historic monument purposes pursuant to the act of June 10, 1948 (62 Stat. 350, 50 U. S. C., 1952 ed., section 1622 (h)), and the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended (40 U. S. C., 1952 ed., section 484), and review of the grantees' biennial reports and their acceptance when satisfactory.

3. A new paragraph (n) and reading as follows, is added to section 3:

(n) Periodic inspection of properties transferred to State and local agencies for park, recreation, and historic monument purposes pursuant to the act of June 10, 1948 (62 Stat. 350, 50 U. S. C., 1952 ed., section 1622 (h)), and the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended (40 U. S. C., 1952 ed., section 484), and review of the grantees' biennial reports and their acceptance when satisfactory.

(National Park Service Order No. 14; 39 Stat. 535; 16 U. S. C. 1952, Sec. 2)

H. REESE SMITH,
Acting Regional Director.

[F. R. Doc. 57-6463; Filed, Aug. 7, 1957; 8:47 a. m.]

Office of the Secretary

[Order 2823]

ALASKA

LAND DISTRICTS AND LAND OFFICES

AUGUST 1, 1957.

SECTION 1. *Juneau Land District established.* A new land district to be known as the Juneau Land District is hereby established. The Juneau Land District will consist of that portion of judicial division number 1, as constituted by the act of June 6, 1900, (31 Stat. 322; 48 U. S. C. 101), as amended, which is situated east of the following described line:

Beginning at Boundary Point number 164 on the International Boundary at the summit of Mt. Fairweather at latitude 58°54'24.27" North and longitude 137°31'27.20" West;
thence, South 37°30' E. approximately 21.4 miles to the summit of Mt. Crillon which is at a latitude 58°39'45.78" North, longitude 137°10'11.05" West;
thence South 12° West approximately 14.7 miles to U. S. Coast and Geodetic Triangulation station "Glacier (1926)" at latitude 58°27'26.327" North, longitude 137°15' 18.983" West which is located on the coast.

SEC. 2. *Juneau Land Office established.* A land office is hereby established at Juneau, Alaska and the business and necessary archives pertaining to the Juneau land district shall be transferred from the Anchorage Land Office to the office at Juneau.

SEC. 3. *Anchorage and Fairbanks land district boundaries reestablished*—(a) *Anchorage land district.* The boundary of the Anchorage land district shall conform to the boundaries of judicial division number 3, except as provided in sections 3 (c) and 3 (d) of this order, and that portion of judicial division number 1 which is not included in the Juneau land district established by section 1 of this order, as such judicial divisions are now constituted by the act of June 6, 1900 (31 Stat. 322; 48 U. S. C. 101), as amended, or may hereafter be constituted.

(b) *Fairbanks land district.* The boundary of the Fairbanks land district shall conform to the boundaries of judicial divisions number 2 and 4, except as provided in sections 3 (c) and 3 (d) of this order, as such judicial division boundaries are now constituted by the act of June 6, 1900 (31 Stat. 322; 48 U. S. C. 101), as amended, or as may hereafter be constituted.

(c) *Broad Pass area common boundary.* A portion of the common boundary of the Anchorage and Fairbanks land district is hereby reestablished so that the common boundary in the Broad Pass Area will be as follows:

Beginning at a point on the boundary between the Third and Fourth Judicial Divisions at an intersection with what will be the line between T. 18 S., R. 9 W., and T. 18 S., R. 10 W., Fairbanks Meridian, this point located on the west slope of Broad Pass between Bull River and Cantwell Creek at approximate latitude 63°19'37" North, longitude 149°21'36" West;
thence, south 1.8 miles to the northwest corner of T. 19 S., R. 9 W.;

thence, easterly approximately 10.4 miles along the line between T. 18 S., R. 9 W., and T. 19 S., R. 9 W. and along the partially unsurveyed line between T. 18 S., R. 8 W. and T. 19 S., R. 8 W. to a juncture with the aforementioned Judicial Division Boundary line on the east slope of Broad Pass at approximate latitude 63°18'08" North, longitude 149°01'36" West.

(d) *Susitna Valley-Mentasta area common boundary.* A portion of the common boundary of the Anchorage and Fairbanks land districts is hereby reestablished so that the common boundary in the Susitna Valley-Mentasta area will be as follows:

Beginning at a point on the boundary between the Third and Fourth Judicial Divisions located due north of the northeastern inlet to Butte Lake (Nadiwen Lake), this point situated approximately 10 miles west of the Susitna River and at approximate latitude 63°11'57" North, longitude 147°49'55" West;
thence, south 10 chains to said inlet of Butte Lake;
thence, southwesterly along the south shore of Butte Lake and then following the left bank of Butte Creek downstream approximately 30 miles to its confluence with the Susitna River;
thence, east across the Susitna and southeasterly downstream along the left bank of the Susitna River approximately 41 miles to the mouth of the Tyone River;
thence, upstream along the right bank of the Tyone River approximately 12.0 miles to the mouth of an unnamed stream entering the Tyone from a northeasterly direction;
thence, upstream along the left bank of this unnamed stream approximately 12.5 miles to an unnamed lake and continuing for approximately 2.5 miles along the south shore of the lake to its eastern-most point located at approximate latitude 62°43'52" North, longitude 146°47'33" West;
thence, approximately North 58° East 1.75 miles to a point situated on the southwest shore of an unnamed lake which is the headwaters of the West Fork Gulkana River, this point being where the lake is entered by a small stream at its southwest corner;
thence, easterly approximately 1.5 miles along the south shore of the lake to the West Fork Gulkana River;
thence, downstream along the right bank of the West Fork Gulkana River approximately 87.0 miles to its confluence with the Gulkana River;
thence, downstream along the right bank of the Gulkana River approximately 9.5 miles to a point located approximately 0.4 mile due west of Coast and Geodetic triangulation monument "BM–0–8, 1923" which is situated about 0.3 mile south of Sourdough and 70 feet west of the Richardson Highway at latitude 62°31'23.901" North, longitude 145°30'48.110" West;
thence, east 0.4 mile to said triangulation station "BM–0–8, 1923";
thence, continuing east approximately 6.5 miles to a point of intersection with the Copper River Principal Meridian;
thence, north approximately 23.1 miles along the Copper River Meridian to an intersection with the line marking the common boundary between T. 12 N. and T. 13 N. Copper River Meridian;
thence, east approximately 56.6 miles along said line between T. 12 and 13 N. Copper River Meridian, to an intersection with the boundary between the Third and Fourth Judicial Divisions which intersection is approximately 8.5 miles southeast of Mentasta Lake at approximate latitude 62°51'40" North, longitude 143°30'50" West.

(e) The land offices at Anchorage and Fairbanks are continued; however, the business and necessary archives pertaining to the area added to the Fairbanks Land District by this re-establishment of boundaries shall be transferred from the Anchorage Land Office to the Fairbanks Land Office.

SEC. 4. *Effective date: Prior Documents.* This order shall become effective August 15, 1957, at which time Secretary's Orders Nos. 2313 (12 F. R. 2934) and 2656 (16 F. R. 9052) are superseded. (Sec. 6, Act of October 9, 1942 (56 Stat. 799; 48 U. S. C. 365).)

HATFIELD CHILSON,
Acting Secretary of the Interior.

AUGUST 1, 1957.

[F. R. Doc. 57–6464; Filed, Aug. 7, 1957; 8:47 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–50]

NORTH AMERICAN AVIATION, INC.

ISSUANCE OF CONSTRUCTION PERMIT

Please take notice that the Atomic Energy Commission on August 2, 1957, issued Construction Permit No. CPRR–14 to North American Aviation, Inc., authorizing construction of a 5-watt solution-type research reactor at Canoga Park, California. A notice of proposed issuance of this construction permit was published in the FEDERAL REGISTER on July 17, 1957, 22 FR 5648.

Dated at Washington, D. C., this 2d day of August 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

[F. R. Doc. 57–6496; Filed, Aug. 7, 1957; 8:53 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

ILLINOIS

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a–2 (a)), as amended, it has been determined that in the following counties in the State of Illinois a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ILLINOIS

Grundy.	Kankakee.
Iroquois.	Will.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after June 30, 1958, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 5th day of August 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57–6503; Filed, Aug. 7, 1957; 8:54 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 1705–10]

SLICK AIRWAYS, INC.; AIRFREIGHT RATE INVESTIGATION

NOTICE OF PREHEARING CONFERENCE

In the matter of the petition of Slick Airways, Inc., for an investigation of airfreight rates.

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on September 4, 1957, at 10:00 a. m., e. d. s. t., in Room E–210, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Ralph L. Wiser.

Dated at Washington, D. C., August 5, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57–6501; Filed, Aug. 7, 1957; 8:54 a. m.]

[Docket No. 8711]

TACA INTERNATIONAL AIRLINES, S. A.

NOTICE OF PREHEARING CONFERENCE

In the matter of the application of TACA International Airlines, S. A., for renewal of its foreign air carrier permit authorizing it to engage in foreign air transportation with respect to persons, property, and mail between the terminal point San Salvador, El Salvador, the intermediate points Guatemala City, Guatemala, and Belize, British Honduras, and the terminal point New Orleans, Louisiana.

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on September 10, 1957, at 10:00 a. m., e. d. s. t., in Room E–210, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Ferdinand D. Moran.

Dated at Washington, D. C., August 2, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57–6502; Filed, Aug. 7, 1957; 8:54 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12107, 12108; FCC 57M–748]

RIVERSIDE CHURCH AND HIGHLAND BROADCASTING CORP.

ORDER SCHEDULING HEARING

In re applications of the Riverside Church in the City of New York, New York, New York, Docket No. 12107, File No. BPH–2174; Highland Broadcasting

Corporation, Peekskill, New York, Docket No. 12108, File No. BPH-2203; for construction permits.

It is ordered, This 1st day of August 1957, that Hugh B. Hutchison will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 14, 1957, in Washington, D. C.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6488; Filed, Aug. 7, 1957; 8:52 a. m.]

[Docket No. 12109; FCC 57M-749]

BEN HILL BROADCASTING CORP. (WBHB)

ORDER SCHEDULING HEARING

In re application of Ben Hill Broadcasting Corporation (WBHB) Fitzgerald, Georgia, Docket No. 12109, File No. BMP-7573; for modification of construction permit.

It is ordered, This 1st day of August 1957, that Millard F. French will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 14, 1957, in Washington, D. C.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6489; Filed, Aug. 7, 1957; 8:52 a. m.]

[Docket No. 12110; FCC 57M-750]

GRAND HAVEN BROADCASTING CO. (WGHN)

ORDER SCHEDULING HEARING

In re application of Grand Haven Broadcasting Company (WGHN), Grand Haven, Michigan, Docket No. 12110, File No. BP-11160; for construction permit.

It is ordered, This 1st day of August 1957, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 9, 1957, in Washington, D. C.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6490; Filed, Aug. 7, 1957; 8:53 a. m.]

[Docket Nos. 12111, 12112; FCC 57M-751]

K. C. LAURANCE AND PHILIP D. JACKSON

ORDER SCHEDULING HEARING

In re applications of K. C. Laurance, Medford, Oregon, Docket No. 12111, File No. BP-10622; Philip D. Jackson, Weed, California, Docket No. 12112, File No. BP-11268; for construction permits.

It is ordered, This 1st day of August 1957, that J. D. Bond will preside at the hearing in the above-entitled proceeding which is hereby schedued to commence on October 9, 1957, in Washington, D. C.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6491; Filed, Aug. 7, 1957; 8:53 a. m.]

[Docket No. 12016; FCC 57M-746]

JAY SADOW

ORDER SCHEDULING HEARING

In re application of Jay Sadow, Rossville, Georgia, Docket No. 12016, File No. BP-10827; for construction permit.

Pursuant to a pre-hearing conference with counsel held on July 31, 1957, in the above-entitled proceeding: *It is ordered,* This 1st day of August 1957, that the hearing herein BE, and the same is hereby, set for October 21, 1957, commencing at 10 o'clock a. m., in the offices of the Commission, Washington, D. C.

Released: August 1, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6492; Filed, Aug. 7, 1957; 8:53 a. m.]

[Docket No. 12117; FCC 57M-752]

BEST CABS, INC.

ORDER SCHEDULING HEARING

In the matter of application of Best Cabs, Inc., 203 West 9th Street, Wichita, Kansas, Docket No. 12117, File Nos. 10649-LX-PL-L, 20415-LX-L; for radio station authorization in the Taxicab Radio Service.

It is ordered, This 1st day of August 1957, that Herbert Sharfman will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 18, 1957, in Washington, D. C.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6493; Filed, Aug. 7, 1957; 8:53 a. m.]

[Docket No. 12132; FCC 57-880]

CLASS B FM BROADCAST STATIONS

NOTICE OF PROPOSED ALLOCATION

In the matter of amendment of the Revised Tentative Allocation Plan for Class B FM Broadcast Stations; Docket No. 12132.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. It is proposed to amend the Revised Tentative Allocation Plan for Class B FM Broadcast Stations in the following manner:

General area	Channel	
	Delete	Add
Franklin, N. C.		233

3. The purpose of the proposed amendment is to add Channel 233 to Franklin, North Carolina, to facilitate consideration of an application, File No. BPH-2246, submitted by Graves Taylor, John E. Boyd, and Henry G. Bartoll, Jr., d/b as Macon County Broadcasting Company, for a construction permit for a new Class B FM broadcast station in Franklin, North Carolina to operate on Channel 233.

4. Authority for the adoption of the proposed amendment is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as amended.

5. Any interested party who is of the opinion that the proposed amendment should not be adopted or should not be adopted in the form set forth herein, may file with the Commission on or before September 3, 1957, a written statement or brief setting forth his comments. Comments in support of the proposed amendment also may be filed on or before that same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

6. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: August 1, 1957.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-6495; Filed Aug. 7, 1957; 8:53 a. m.]

[FCC 57-920; Amdt. 0-21]

STATEMENT OF ORGANIZATION, DELEGATIONS OF AUTHORITY AND OTHER INFORMATION

In the matter of amendment of sections 0.251 and 0.253 of Part 0, Statement of Organization, Delegations of Authority and Other Information, to provide authorization for the Chief of the Common Carrier Bureau, or, in his absence, the Acting Chief of the Bureau, to act upon applications filed by common

carriers under sections 214 and 319 of the Communications Act of 1934, as amended, for authority to construct or acquire and operate wire, cable or radio facilities where the proposed expenditure for such construction or acquisition is less than $2,000,000; and, amendment of sections 0.214 and 0.215 of Part 0 to provide authorization for the Telegraph or Telephone Committees, respectively, to act upon such applications where the proposed expenditure for such construction or acquisition is $2,000,000 or more; Amdt. 0–21.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 1st day of August 1957.

The Commission, having under consideration the matter of expediting action on applications filed with it by common carriers under section 214 or 319, respectively, of the Communications Act of 1934, as amended, to construct or acquire wire, cable or radio facilities; and

It appearing that it would be conducive to the orderly dispatch of the Commission's business to authorize the Telephone or Telegraph Committee to act upon applications filed under section 319, as well as those filed under section 214, as is now provided by the Commission's Rules; and

It further appearing that it would be conducive to the orderly dispatch of the Commission's business to authorize the Chief of the Common Carrier Bureau, or, in his absence, the Acting Chief of the Bureau, to act upon applications where the proposed expenditure for construction or acquisition by the carrier is less than $2,000,000; and

It further appearing that Notice of Proposed Rule Making is not required by the provisions of section 4 of the Administrative Procedure Act since the amendments of the rules herein relate to internal Commission organization and procedure and are not substantive in nature; and

It further appearing that authority for the proposed rule is contained in sections 4 (i) and 5 (d) (1) of the Communications Act of 1934, as amended;

It is hereby ordered, That effective immediately, sections 0.214, 0.215, 0.251 and 0.253 of Part 0 of the Commission's Statement of Organization, Delegations of Authority and Other Information are hereby amended as follows:

1. Section 0.214 is amended to read as follows:

SEC. 0.214 *Delegation to Telegraph Committee.*

(a) A Telegraph Committee, composed of three Commissioners, designated as such by the Commission or a majority thereof, will act, except as otherwise ordered by the Commission, upon all applications or requests submitted under sections 214 or 319 of the Communications Act of 1934, as amended, by carriers engaged principally in record communication, for certificates or authorizations for the construction, acquisition, operation, or extension of telegraph wire, cable, or radio facilities, for temporary or emergency telegraph service, for supplementing existing telegraph facilities, or for discontinuance, reduction, or impairment of telegraph service, except those covered by sections 0.251 and 0.253.

(b) Actions taken by the Telegraph Committee shall be recorded each week in writing and filed in the official minutes of the Commission.

2. Section 0.215 is amended to read as follows:

SEC. 0.215 *Delegation to Telephone Committee.*

(a) A Telephone Committee, composed of three Commissioners, designated as such by the Commission, or a majority thereof, will act, except as otherwise ordered by the Commission, upon all applications or requests submitted under sections 214 or 319 of the Communications Act of 1934, as amended, by carriers engaged principally in telephone communication, for certificates or authorizations for the construction, acquisition, operation, or extension of telephone or telegraph wire, cable, or radio facilities, for temporary or emergency telephone service, for supplementing exisiting telephone or telegraph facilities, or for discontinuance, reduction, or impairment of telephone or telegraph service, except those covered by sections 0.251 and 0.253.

(b) Actions taken by the Telephone Committee shall be recorded each week in writing and filed in the official minutes of the Commission.

3. In section 0.251, the text preceding paragraph (a) is amended to read as follows:

SEC. 0.251 *Matters delegated.* The Chief of the Common Carrier Bureau, or, in his absence, the Acting Chief of the Common Carrier Bureau, is delegated authority to act upon the following applications, requests, and other matters, which are not in hearing status, involving the use of radio, insofar as they apply to common carrier services, where the estimated construction cost is less than $2,000,000 (except Marine and Aeronautical):

4. In section 0.253, paragraphs (a) and (b) are amended to read as follows:

(a) For a certificate authorizing the construction, acquisition, operation, or extension of lines, or for an authorization for temporary or emergency service or the supplementing of existing facilities involving an estimated construction or purchase cost of less than $2,000,000, or an annual rental of less than $100,000.

(b) For modification of a certificate or authorization under this section of the act where such amendment or modification involves an estimated construction or purchase cost of less than $2,000,000 or an annual rental of less than $100,000.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57–6494; Filed, Aug. 7, 1957; 8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G–12998]

SOHIO PETROLEUM CO.

ORDER SUSPENDING PROPOSED CHANGE IN RATES

AUGUST 2, 1957.

Sohio Petroleum Company (Sohio), submitted for filing on July 3, 1957, proposed changes in the presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Contract dated April 3, 1957 and Supplemental Agreement dated January 6, 1956.

Purchaser: Natural Gas Pipeline Company of America.

Rate Schedule, designation: FPC Gas Rate Schedule No. 37 and Supplement No. 1 thereto.

Effective date: [1] August 3, 1957.

Sohio's tender consists of two documents, one of which is entitled as a gas purchase agreement, dated April 3, 1957, covering a unitized lease in Beaver County, Oklahoma Northwest Quarter (NW/4) of section 17, Township 1 North, Range 20 ECM. Sohio's filing shows that this lease has been pooled for production of gas from specified formations, so as to form a single operating unit [2] consisting of all of section 17 operated by Atlantic Refining Company covered by an unfiled joint operating agreement. Sohio owns 25 percent of all gas which may be produced from such operating unit, and proposes a rate of 16.2 cents per Mcf.

Sohio's other tendered document, which is incorporated by reference in the first document, is a gas purchase agreement between Atlantic Refining Company, Seller, and Natural Gas Pipeline Company of America, Buyer, dated January 6, 1956. Atlantic has previously filed this agreement, designated Atlantic's FPC Gas Rate Schedule No. 133. Under this agreement, Atlantic agreed to deliver and sell all of the gas owned by Atlantic produced from certain of its leases, among which is included one covering the Southeast Quarter (SE/4) of the same section 17. Sohio's contract states that the parties enter into an agreement "on the terms, covenants and provisions identical with those contained in" the Atlantic agreement, except that the gas sold thereunder is Sohio's gas produced from its said lease as unitized; and except that the volume of gas would be Sohio's proportionate share of gas produced from said joint interest well and that no deliveries of gas shall be made thereunder until Seller obtains and accepts a certificate of public convenience and necessity from this Commission.

The pricing provisions of the Atlantic contract provide for an initial rate of

[1] The stated effective date is the first day after expiration of the required thirty days' notice, or the effective date proposed, if later.

[2] Identified as the E. K. Bryan unit.

16 cents per Mcf for the first year of sales, with a periodic increase to 16.2 cents per Mcf for the second year, with similar increases in subsequent years to the twentieth year at 19.8 cents per Mcf. Atlantic filed for the second year increase to 16.2 cents per Mcf, to be effective May 10, 1957, and the Commission suspended that increase to October 10, 1957, by order issued April 29, 1957, in Docket No. G–12461.

Under its Rate Schedule No. 133 and unitized operating agreement, Atlantic agrees to sell gas from a number of units including the E. K. Bryan unit, of which Sohio's interest is 25 percent.

Sohio's filings, proposing a rate of 16.2 cents per Mcf, insofar as they cover the sale of gas to be produced from acreage previously dedicated under Atlantic's rate schedule, purport to increase the rate continued in effect during the period of suspension of Atlantic's escalation price of 16.2 cents.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a hearing concerning the lawfulness of the said proposed rate filings, and that the above-designated rate filings be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter 1), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges.

(B) Pending such hearing and decision thereon, said rate filings be and they are each hereby suspended and the use thereof deferred until October 10, 1957, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the rate filings hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.[3]

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–6478; Filed, Aug. 7, 1957; 8:49 a. m.]

[3] Commissioner Digby dissenting.

[Docket No. G–12995]

N. B. HUNT

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

AUGUST 2, 1957.

N. B. Hunt (Hunt) on July 5, 1957, tendered for filing a proposed change in his presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated July 3, 1957.

Purchaser: Texas Illinois Natural Gas Pipeline Company.

Rate Schedule designation: Supplement No. 8 to Hunt's FPC Gas Rate Schedule No. 8.

Effective date:[1] September 1, 1957.

In support of the proposed periodic rate increase, Hunt submitted a repetition of statements made in support of the previous proposed increases, all of which have been considered by the Commission.

Two prior proposed increases have been suspended. The first increase filed May 14, 1956, and amended by filing of July 9, 1956, was suspended by Commission's orders issued June 13, 1956, and August 9, 1956, in Docket No. G–10564, and placed in effect subject to refund as of January 7, 1957. The second increase, filed December 11, 1956, was suspended by Commission's order issued January 10, 1957, in Docket No. G–11721. On August 1, 1957, the Commission issued its order making effective as of June 11, 1957, Hunt's proposed rate change in Docket No. G–11721 upon filing of undertaking to assure refund of excess charges.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until February 1, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.[3]

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–6466; Filed, Aug. 7, 1957; 8:48 a. m.]

[1] The stated effective date is the first day after expiration of the required thirty days' notice, or the effective date proposed by Hunt, if later.

[Docket No. G–12996]

A. F. BRANN

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

AUGUST 2, 1957.

A. F. Brann (Brann) on July 5, 1957, tendered for filing a proposed change in his presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated July 2, 1957.

Purchaser: Natural Gas Pipe Line Company of America.

Rate Schedule designation: Supplement No. 2 to Brann's FPC Gas Rate Schedule No. 1.

Effective date:[1] August 5, 1957.

In support of the increased rate, Brann mentions arm's-length bargaining, the effect of the contract price schedule being the same as if the parties had agreed on an average price, the benefit to the buyer of purchasing gas at a lower initial rate, and the long term of the contract.

The increased rate and charge so proposed by Brann has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's general rules of practice and procedure and

[1] The stated effective date is the first day after expiration of the required thirty days notice, or the effective date proposed by Brann, if later.

the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until January 5, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.[2]

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-6467; Filed, Aug. 7, 1957; 8:48 a. m.]

[Docket No. G-12997]

ARKANSAS FUEL OIL CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

AUGUST 2, 1957.

Arkansas Fuel Oil Corporation (Arkansas) on July 5, 1957, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Supplemental Agreement, dated May 8, 1957. Notice of Change, undated.

Purchaser: United Gas Pipe Line Co.

Rate schedule designation: Supplement No. 1 to Arkansas' FPC Gas Rate Schedule No. 2. Supplement No. 2 to Arkansas' FPC Gas Rate Schedule No. 2.

Effective date: [1] August 5, 1957.

In support of the proposed rate increases, Arkansas states that the original contract was entered into for two months and has been continued on a month-to-month basis in order to prevent drainages by nearby wells and for the protection of its investment and the interests of its lessor and the royalty owners pending the negotiation of a long term contract, that the new contract is for twenty years and dedicates the entire unit instead of only the single lease, and that the proposed rate is in accordance with the fair market value in south Louisiana.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges.

(B) Pending such hearing and decision thereon, said supplements be and they are hereby suspended and the use thereof deferred until January 5, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-6468; Filed, Aug. 7, 1957; 8:48 a. m.]

[Docket No. G-12999]

TIDEWATER OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

AUGUST 2, 1957.

Tidewater Oil Company (Tidewater) on July 15, 1957, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, dated July 11, and July 10, 1957.

Purchaser: Texas Illinois Natural Gas Pipe Line Company.

Rate schedule designation: Supplement No. 11 to Tidewater's FPC Gas Rate Schedule No. 5. Supplement No. 14 to Tidewater's FPC Gas Rate Schedule No. 18.

Effective date: [3] September 1, 1957.

The present rate is in effect subject to refund, having been suspended in Docket No. G-10998. In support of the proposed rate increase, Tidewater states that the contract was arrived at by arm's-length bargaining between the parties.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until February 1, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.[2]

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-6469; Filed, Aug. 7, 1957; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2115]

BELLANCA CORP.

ORDER SUMMARILY SUSPENDING TRADING

AUGUST 2, 1957.

In the matter of trading on the American Stock Exchange in the $1.00 par value Capital Stock of Bellanca Corporation, File No. 1-2115.

I. The $1.00 par value Capital Stock of Bellanca Corporation is listed and registered on the American Stock Exchange, a national securities exchange; and

II. The Commission on April 24, 1957, issued its order and notice of hearing under section 19 (a) (2) of the Securities Exchange Act of 1934 (hereinafter called "the act") to determine at a hearing be-

[1] The stated effective date is the first day after expiration of the required thirty days, notice, or the effective date proposed by Arkansas, if later.

[2] Commissioner Digby dissenting.

[3] The stated effective date is the first day after expiration of the required thirty days' notice, or the effective date proposed by Tidewater, if later.

ginning July 10, 1957, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw, the registration of the capital stock of Bellanca Corporation (hereinafter called "registrant") on the American Stock Exchange for failure to comply with section 13 of the act and the rules and regulations adopted thereunder, and for failure to comply with the disclosure requirements of Regulation X-14 adopted pursuant to section 14 (a) of the act.

On July 24, 1957, the Commission issued its order summarily suspending trading of said securities on the exchange pursuant to section 19 (a) (4) of the act for the reasons set forth in said order to prevent fraudulent, deceptive or manipulative acts or practices for a period of ten days from the date of the aforesaid order.

III. The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on the American Stock Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion that such suspension is necessary in order to prevent fraudulent, deceptive, or manipulative acts or practices, with the result that it will be unlawful under section 15 (c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule X-15C2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, such security otherwise than on a national securities exchange.

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934, that trading in said securities on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive, or manipulative acts or practices for a period of ten (10) days, August 3 to August 12, 1957, inclusive.

By the Commission.

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

[F. R. Doc. 57-6471; Filed, Aug. 7, 1957; 8:49 a. m.]

[File No. 24 NY-4117]

ARLISS PLASTICS CORP.

NOTICE OF AND ORDER FOR HEARING

AUGUST 2, 1957.

Arliss Plastics Corporation (Arliss), a Delaware corporation, 369-375 DeKalb Avenue, Brooklyn 5, N. Y. (formerly known as International Plastic Industries Corp.), filed with the Commission on October 12, 1955, a Notification on Form 1-A and subsequently filed amendments thereto relating to a proposed public offering of 150,000 shares of common stock, 10 cents par value, at $2.00 a share, or $300,000 in the aggregate, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A, promulgated thereunder.

The Commission on June 26, 1957 issued an order pursuant to Rule 223 of the General Rules and Regulations under the Securities Act of 1933, as amended, temporarily suspending the conditional exemption under Regulation A and affording to any person having an interest therein an opportunity to request a hearing pursuant to Rule 261. A written request for a hearing was received by the Commission from Arliss.

The Commission deeming it necessary and appropriate to determine whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption,

It is hereby ordered, That a hearing under the applicable provisions of the Securities Act of 1933, as amended, and the rules of the Commission be held August 28, 1957, at 10:00 a. m. at the New York Regional Office of the Commission, 225 Broadway, New York, N. Y., with respect to the following matters and questions without prejudice, however, to the specification of additional issues which may be presented in these proceedings:

A. Whether the terms and conditions of Regulation A have not been complied with, in that:

1. The notification failed to state therein each of the jurisdictions in which the securities were to be offered as required by Item 1; and

2. In connection with the offering use has been made of written communications, to wit, reprints of an article in the New York Times, November 13, 1956 edition, relating to Arliss, which were not filed with the Commission as required by Rule 221; and

B. Whether the offering circular and other sales literature contain untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading concerning, among other things:

1. The arrangements to reimburse the underwriter for certain expenses; and

2. A contemplated merger of Arliss with, or sale of assets by Arliss to, another concern; and

C. Whether in connection with, and in furtherance of, the offering, materially false and misleading statements were made orally in representing, among other things, that:

1. Purchasers of Arliss stock would get a dividend in December, 1956;

2. Arliss stock would go on the American Stock Exchange at $5 a share in January of 1957;

3. Arliss stock would double in value in a short time;

4. Arliss would pay wonderful dividends;

5. Arliss would merge with a listed company;

6. Arliss would merge;

7. After Arliss merger, Arliss stock would be worth $4.00 per share; and

8. Arliss had wonderful prospects due to new management; and

D. Whether the employment of the oral representations, the offering circular and other sales literature, above referred to, in connection with the offering of Arliss stock to which the notification related would and did operate as a fraud and deceit upon the purchasers.

E. Whether the order dated June 26, 1957 suspending the exemption under Regulation A with respect to Arliss should be vacated or made permanent.

It is further ordered, That Mr. Sidney L. Feiler, or any officer or officers of the Commission designated by it for that purpose, shall preside at the hearing, and any officer or officers so designated to preside at any such hearing are hereby authorized to exercise all of the powers granted to the Commission under sections 19 (b), 21 and 22 (c) of the Securities Act of 1933, as amended, and to hearing officers under the Commission's rules of practice.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order by registered mail on Arliss Plastics Corporation, 369-375 DeKalb Avenue, Brooklyn 5, New York; that notice of the entering of this order shall be given to all other persons by general release of the Commission and by publication in the FEDERAL REGISTER. Any person who desires to be heard or otherwise wishes to participate in such hearing shall file with the Secretary of the Commission on or before August 26, 1957, a request relative thereto as provided in Rule XVII of the Commission's rules of practice.

By the Commission.

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

[F. R. Doc. 57-6472; Filed, Aug. 7, 1957; 8:49 a. m.]

[File No. 24W-1706]

WASHINGTON INSTITUTE FOR EXPERIMENTAL MEDICINE, INC.

ORDER VACATING ORDER OF SUSPENSION

AUGUST 2, 1957.

Washington Institute for Experimental Medicine, Inc., a Virginia corporation, with principal office located at R. F. D., Herndon, Fairfax County, Virginia, filed with the Commission on September 30, 1954 a Notification and a Rule 219 (b) statement as an exhibit thereto, and subsequently filed amendments thereto, relating to a proposed offering of 500 shares of $100 par 7 percent cumulative preferred stock at par, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A thereunder.

The Commission on June 5, 1956 ordered, pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933, as amended, that the conditional exemption under Regulation A sought for the offering be temporarily suspended on the ground that the terms and conditions of Regulation A had not been complied with in

that Form 2–A reports of sales, as required by Rule 224, had not been filed.

Subsequent to the Commission's action temporarily suspending the exemption, a Form 2–A report reflecting the sale of 40 shares was filed, a petition was made that the said order be vacated and that the unsold portion of the offering be withdrawn, and information was submitted to establish that the failure to file the report of sales was due entirely to inadvertence.

It appearing to the Commission that a hearing is not necessary or appropriate in the public interest or for the protection of investors, and that no objection should be raised to issuer's aforesaid request for withdrawal of the unsold shares;

It is ordered, Pursuant to Rule 223 (b) of the general rules and regulations under the Securities Act of 1933, as amended, that said temporary order for suspension be, and it hereby is, vacated.

By the Commission.

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

[F. R. Doc. 57–6473; Filed, Aug. 7, 1957; 8:49 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 414 (16 F. R. 7367), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Benton Industries, Inc., Colley Street, Benton, Pa.; effective 7–24–57 to 7–23–58 (sport shirts).

Classic Dress Co., Mary and Hamilton Streets, Dickson City, Pa.; effective 7–26–57 to 7–25–58 (children's cotton dresses).

Clyde Shirt Co., Northampton, Pa.; effective 8–4–57 to 8–3–58 (women's blouses).

Plains Manufacturing Co., Inc., 61 Hudson Road, Plains, Pa.; effective 7–26–57 to 7–25–58 (brassieres).

Quality Sewn Products, Inc., Royston, Ga.; effective 7–25–57 to 7–24–58 (sport shirts).

Roydon Wear, Inc., Oak Street, McRae, Ga.; effective 8–8–57 to 8–7–58 (outerwear, trousers and shorts).

Salem Garment Co., Inc., Salem, S. C.; effective 8–11–57 to 8–10–58 (women's washdresses).

Sportcaster Co., 2222 Second Avenue, Seattle, Wash.; effective 7–29–57 to 7–28–58 (men's and boys' jackets).

Sylvania Garment Co., Inc., Sylvania, Ga.; effective 7–26–57 to 7–25–58 (sport shirts).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Draffin Manufacturing Co., North Scott Street, Camilla, Ga.; effective 7–29–57 to 7–28–58; five learners (ladies' and children's play shorts, pedal pushers).

Edmonton Manufacturing Co., Edmonton, Ky.; effective 7–30–57 to 7–29–58; 10 learners (work clothing).

Fairmont Manufacturing Co., Inc., East Sandy Street, Fairmont, N. C.; effective 7–26–57 to 7–25–58; 10 learners (ladies' nightgowns, pajamas).

Johnson Garment Corp., 307 West Second Street, Marshfield, Wis.; effective 7–26–57 to 7–25–58; five learners (men's and boys' outerwear, parkas).

Marine Garment Co., Marine, Ill.; effective 8–5–57 to 8–4–58; 10 learners. Learners may not be engaged at special minimum wage rates in the production of separate skirts (women's sportswear and outerwear).

Bob W. Mermel d/b/a Mermel Sportswear Manufacturing Co., 66 Washington Street, Bristol, R. I.; effective 7–26–57 to 7–25–58; 10 learners. Learners may not be engaged at special minimum wage rates in the production of jumpers, separate skirts, lined jackets, and suits (children's and ladies' sportswear).

Salley Manufacturing Co., Salley, S. C.; effective 7–29–57 to 7–28–58; 5 learners (ladies' sportswear).

Woolrich Woolen Mills, Avis, Pa.; effective 7–29–57 to 7–28–58; 5 learners (woolen shirts, jackets and coats).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Bowman Shirt Manufacturing Co., Inc., 199 Broughton Street, Orangeburg, S. C.; effective 7–24–57 to 1–23–58; 20 learners (ladies' and children's dusters).

Draffin Manufacturing Co., North Scott Street, Camilla, Ga.; effective 7–29–57 to 1–28–58; 15 learners (ladies' and children's play shorts, pedal pushers).

Whiteville Garment Manufacturing Co., Wilmington Road, Whiteville, N. C.; effective 7–25–57 to 1–24–58; 10 learners (denim jeans).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.60 to 522.65, as amended).

Seattle Glove Co., 519 12th Ave., South Seattle, Wash.; effective 7–25–57 to 7–24–58; 10 learners for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.43, as amended).

Halifax County Hosiery Mills, Scotland Neck, N. C.; effective 7–26–57 to 7–25–58; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Spalding Knitting Mills, East Broad Street, Griffin, Ga.; effective 7–24–57 to 7–23–58; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

Monarch-Comer Co., Comer, Ga.; effective 7–22–57 to 7–21–58; authorizing the employment of 10 learners for normal labor turnover purposes, in the occupations of sewing machine operators and final presser, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (boys' suits, women's shorts and boys' trousers).

Monarch-Fitzgerald Co., Fitzgerald, Ga.; effective 7–22–57 to 7–21–58; authorizing the employment of 10 learners for normal labor turnover purposes, in the occupations of sewing machine operators and final presser, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (boys' suits, women's shorts and boys' trousers).

Herman D. Oritsky & Co., 106 Grape Street, Reading, Pa.; effective 7–26–57 to 1–25–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's suits).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Alfredo Manufacturing Corp., Rio Grande, P. R.; effective 6–27–57 to 9–3–57; authorizing the employment of 100 learners for plant expansion purposes, in the occupations of cutting, sewing machine operating, and final pressing, each for a learning period of 480 hours at the rates of 53 cents an hour for the first 240 hours and 59 cents an hour for the remaining 240 hours (replacement certificate) (men's and boys' pajamas).

Atlantic Sportswear, Inc., Rio Piedras, P. R.; effective 6–27–57 to 8–16–58; authorizing the employment of 50 learners for plant expansion purposes, in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 55 cents an hour for the first 240 hours and 63 cents an hour for the remaining 240 hours (replacement certificate) (men's and boys' jackets).

Beatrice Needle Craft, Inc., Malecon Road Plant, Mayaguez, P. R.; effective 6–24–57 to 9–30–57; authorizing the employment of 50 learners for plant expansion purposes, in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 320 hours and 66 cents an hour for the remaining 160 hours (replacement certificate) (brassieres).

Beatrice Needle Craft, Inc., 18 San Vicente Street, Mayaguez, P. R.; effective 6–24–57 to 3–31–58; authorizing the employment of 17 learners for normal labor turnover purposes, in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 57 an hour for the first 320 hours and 66 cents an hour for the remaining 160 hours (replacement certificate) (brassieres).

Beatrice Needle Craft, Inc., Ponce, P. R.; effective 6–24–57 to 11–4–57; authorizing the employment of 55 learners for plant expan-

sion purposes in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 320 hours and 66 cents an hour for the remaining 160 hours (replacement certificate) (brassieres).

Bra Glo Manufacturing Co., Inc., Carolina, P. R.; effective 6–24–57 to 8–15–57; authorizing the employment of 20 learners for normal labor turnover purposes, in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 320 hours and 66 cents an hour for the remaining 160 hours (replacement certificate) (brassieres).

Catherine Needle Craft, Inc., 60 Comercio Street, Mayaguez, P. R.; effective 6–24–57 to 10–28–57; authorizing the employment of 40 learners for plant expansion purposes, in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 320 hours and 66 cents an hour for the remaining 160 hours (replacement certificate) (brassieres).

Elgee, Inc., Rio Piedras, P. R.; effective 7–1–57 to 1–31–58; authorizing the employment of 10 learners for normal labor turnover purposes, in the occupation of stone setting for a learning period of 160 hours at the rate of 58 cents an hour (replacement certificate) (stone setting on combs, barrettes and chignon pins).

Island Industries, Inc., Catano, P. R.; effective 6–24–57 to 10–17–57; authorizing the employment of 20 learners for plant expansion purposes, in the occupations of looping and machine stitching; each for a learning period of 480 hours at the rates of 57 cents an hour for the first 320 hours and 66 cents an hour for the remaining 160 hours (replacement certificate) (seamless full fashioned girdles).

Juana Diaz Co., Inc., Juana Diaz, P. R.; effective 6–24–57 to 11–4–57; authorizing the employment of 26 learners for plant expansion purposes, in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 320 hours and 66 cents an hour for the remaining 160 hours (replacement certificate) (brassieres).

Knitco, Inc., Toa Alta, P. R.; effective 7–1–57 to 12–31–57; authorizing the employment of 31 learners for plant expansion purposes, in the occupations of: (1) knitters, loopers, and toppers, each for a learning period of 480 hours at the rates of 58 cents an hour for the first 240 hours and 68 cents an hour for the remaining 240 hours; (2) machine stitchers, hand sewers, and pressers, each for a learning period of 320 hours at the rates of 58 cents an hour for the first 160 hours and 68 cents an hour for the remaining 160 hours; and (3) rewinding and washer for a learning period of 240 hours at the rate of 58 cents an hour (sweaters).

Lisa, Inc., 1253 Las Palmas Street, Santurce, P. R.; effective 6–24–57 to 8–24–57; authorizing the employment of 10 learners for plant expansion purposes, in the occupation of sewing machine operators for a learning period of 300 hours at the rate of 57 cents an hour (replacement certificate) (brassieres).

Makress, Inc., 908 Miraflores Street, Santurce, P. R.; effective 6–24–57 to 11–26–57; authorizing the employment of 6 learners for normal labor turnover purposes, in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 320 hours and 66 cents an hour for the remaining 160 hours (replacement certificate) (corsets, girdles and allied products).

Rio Grande Manufacturing Corp., Rio Grande, P. R.; effective 6–27–57 to 3–25–58; authorizing the employment of 10 learners for normal labor turnover purposes, in the occupations of sewing machine operating, final pressing, and cutting, each for a learning period of 480 hours at the rates of 53 cents an hour for the first 240 hours and 59 cents an hour for the remaining 240 hours (replacement certificate) (men's shorts).

St. Regis Paper and Bag Corp., of P. R., Playa Ponce, P. R.; effective 7–2–57 to 7–1–58; authorizing the employment of 5 learners for normal labor turnover purposes, in the occupations of sewing for a learning period of 240 hours and valving and sleeving for a learning period of 160 hours, each to be paid for at the rate of 56 cents an hour (paper bags).

Stadium Manufacturing Co. of P. R., Inc., Villalba, P. R.; effective 6–27–57 to 7–20–57; authorizing the employment of 25 learners for plant expansion purposes, in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 53 cents an hour for the first 240 hours and 59 cents an hour for the remaining 240 hours (replacement certificate) (men's pajamas).

Textile Dye Works, Inc., Arroyo, P. R.; effective 7–1–57 to 12–31–57; authorizing the employment of 6 learners for plant expansion purposes, in the occupations of dyeing machine operator and dryer operator, each for a learning period of 240 hours at the rate of 58 cents an hour (dyeing of knit goods).

Warner Brothers Co. of P. R., Inc., Guayanabo, P. R.; effective 6–24–57 to 9–9–57; authorizing the employment of 23 learners for normal labor turnover purposes, in the occupation of sewing machine operators, for a learning period of 480 hours at the rates of 57 cents an hour for the first 320 hours and 66 cents an hour for the remaining 160 hours (replacement certificate) (brassieres).

Youthful Corp., 161 Ponce de Leon Avenue, Hato Rey, P. R.; effective 6–24–57 to 5–14–58; authorizing the employment of five learners for normal labor turnover purposes, in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 320 hours and 66 cents an hour for the remaining 160 hours (replacement certificate) (girdles).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D. C., this 31st day of July 1957.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 57–6465; Filed, Aug. 7, 1957; 8:47 a. m.]