



**Internal Revenue Service**

**RULES AND REGULATIONS:**  
 Income tax; taxable years beginning after December 31, 1953: Certain foreign entities..... 11877  
 Returns; organization or reorganization of foreign corporations and acquisitions of their stock..... 11881

**Interstate Commerce Commission**

**NOTICES:**  
 Fourth section applications for relief..... 11910  
**RULES AND REGULATIONS:**  
 Explosives and other dangerous articles; miscellaneous amendments..... 11849

**Justice Department**

See Immigration and Naturalization Service.  
**Land Management Bureau**  
**RULES AND REGULATIONS:**  
 Alaska; public land order; revoking Public Land Order No. 861 of September 3, 1952..... 11894

**Securities and Exchange Commission**

**NOTICES:**  
*Hearings, etc.:*  
 American Eagle Mining Co..... 11908  
 Atlantic Seaboard Corp. and Columbia Gas System Inc..... 11909  
 Central and South West Corp. et al..... 11909

**Treasury Department**

See also Internal Revenue Service.  
**NOTICES:**  
 Portland cement from Norway; fair value determination..... 11903

**Veterans Administration**

**RULES AND REGULATIONS:**  
 Adjudication; pension, compensation, and dependency and indemnity compensation; miscellaneous amendments..... 11886  
 United States Government life insurance; and National Service life insurance; miscellaneous amendments..... 11893

**Codification Guide**

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

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

**3 CFR**

**EXECUTIVE ORDERS:**  
 11017 (amended by EO 11069)..... 11847  
 11069..... 11847

**7 CFR**

905 (3 documents)..... 11870, 11871  
 907..... 11872  
 949..... 11872  
 1125..... 11873  
 1133..... 11874  
 1136..... 11874

**PROPOSED RULES:**  
 811..... 11895

**8 CFR**

252..... 11875

**14 CFR**

**PROPOSED RULES:**  
 221..... 11898  
 600..... 11898  
 601 (2 documents)..... 11898, 11900  
 602 (4 documents)..... 11898, 11900, 11901

**16 CFR**

13 (3 documents)..... 11875, 11876

**21 CFR**

121 (2 documents)..... 11876, 11877  
**PROPOSED RULES:**  
 121..... 11902

**26 CFR**

1 (2 documents)..... 11877, 11881  
 301..... 11881

**32 CFR**

231..... 11893

**38 CFR**

3..... 11886  
 6..... 11893  
 8..... 11893

**43 CFR**

**PUBLIC LAND ORDERS:**  
 861 (revoked by PLO 2820)..... 11894  
 2340 (see PLO 2820)..... 11894  
 2820..... 11894

**49 CFR**

71-78..... 11849

Announcing first  
5-year Cumulation

**UNITED STATES STATUTES AT LARGE**

**TABLES OF LAWS AFFECTED in Volumes 70-74**

Lists all prior laws and other Federal instruments which were amended, repealed, or otherwise affected by the provisions of public laws enacted during the years 1956-1960. Includes index of popular name acts affected in Volumes 70-74.

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# Presidential Documents

## Title 3—THE PRESIDENT

### Executive Order 11069

#### AMENDING EXECUTIVE ORDER NO. 11017<sup>1</sup> SO AS TO DESIGNATE THE SECRETARY OF COMMERCE AS A MEMBER OF THE RECREA- TION ADVISORY COUNCIL

By virtue of the authority vested in me as President of the United States, Section 1(a) of Executive Order No. 11017 of April 27, 1962, which established the Recreation Advisory Council, is hereby amended by inserting "the Secretary of Commerce," immediately after "the Secretary of Defense,".

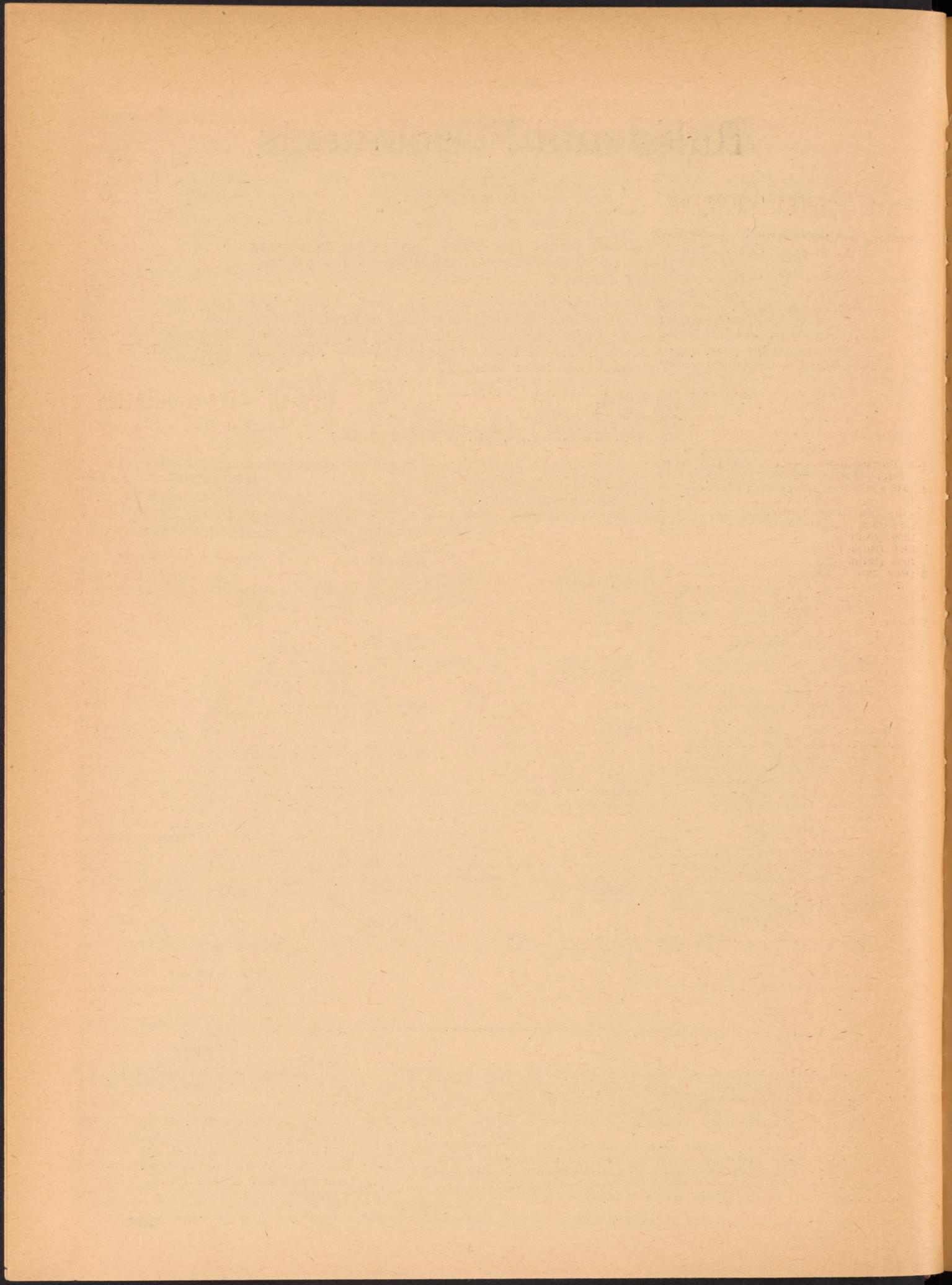
JOHN F. KENNEDY

THE WHITE HOUSE,  
*November 28, 1962.*

[F.R. Doc. 62-11952; Filed, Nov. 29, 1962; 1:16 p.m.]

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<sup>1</sup> 27 F.R. 4141.



# Rules and Regulations

## Title 1—GENERAL PROVISIONS

### Chapter I—Administrative Committee of the Federal Register

#### CFR CHECKLIST

The following checklist, arranged in order of titles, shows the issuance date and price of current volumes and pocket supplements of the Code of Federal Regulations. (The rate for subscription service to all revised volumes and pocket supplements to be issued as of January 1, 1963, is \$100 domestic, \$30 additional for foreign mailing.) Order from Superintendent of Documents, Government Printing Office, Washington 25, D.C.

	CFR Unit	Price
1-4 (Revised Jan. 1, 1961)		\$4.00
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Supp. (Jan. 1, 1962)		.40
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1090-1119 (Rev. Jan. 1, 1962)		1.00
1120-end (Rev. Jan. 1, 1962)		1.00
8 (Rev. Jan. 1, 1958)		3.25
Supp. (Jan. 1, 1962)		.50
9 (Rev. Jan. 1, 1959)		4.75
Supp. (Jan. 1, 1962)		.65
10-13 (Rev. Jan. 1, 1959)		5.50
Supp. (Jan. 1, 1962)		1.25
14 Parts:		
1-19 (Rev. Jan. 1, 1962)		2.50
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200-399 (Rev. Jan. 1, 1962)		1.00
400-599 (Rev. Jan. 1, 1962)		.65
600-end (Rev. Jan. 1, 1962)		.70
15 (Rev. 1956)		5.00
Supp. (Jan. 1, 1962)		1.25
16 (Rev. Jan. 1, 1960)		6.50
Supp. (Jan. 1, 1962)		.45
17 (Rev. 1949)		2.75
Supp. (Jan. 1, 1962)		1.00
18 (Rev. Jan. 1, 1961)		6.75
Supp. (Jan. 1, 1962)		.35
19 (Rev. Jan. 1, 1961)		5.50
Supp. (Jan. 1, 1962)		.35
20 (Rev. Jan. 1, 1961)		5.50
Supp. (Jan. 1, 1962)		.40
21 (Rev. 1955)		( <sup>1</sup> )
Supp. (Jan. 1, 1962)		2.25
22-23 (Rev. Jan. 1, 1958)		4.25
Supp. (Jan. 1, 1962)		.55

<sup>1</sup> Out of stock.

	CFR Unit	Price
24 (Rev. Jan. 1, 1962)		\$3.00
25 (Rev. Jan. 1, 1958)		4.50
Supp. (Jan. 1, 1962)		.50
26 Parts:		
1 (§§ 1.0-1-1.400; Rev. Jan. 1, 1961)		5.50
Supp. (Jan. 1, 1962)		.40
1 (§§ 1.401-1.860; Rev. Jan. 1, 1961)		5.50
Supp. (Jan. 1, 1962)		.55
1 (§§ 1.861-end) to 19 (Rev. Jan. 1, 1961)		5.00
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30-39 (Rev. Jan. 1, 1961)		3.50
Supp. (Jan. 1, 1962)		.30
40-169 (Rev. Jan. 1, 1961)		4.50
Supp. (Jan. 1, 1962)		.50
170-299 (Rev. Jan. 1, 1961)		6.25
Supp. (Jan. 1, 1962)		.50
300-499 (Rev. Jan. 1, 1961)		4.00
Supp. (Jan. 1, 1962)		.35
500-599 (Rev. Jan. 1, 1961)		4.25
Supp. (Jan. 1, 1962)		.30
600-end (Rev. Jan. 1, 1961)		3.00
Supp. (Jan. 1, 1962)		.30
27 (Rev. Jan. 1, 1961)		3.00
Supp. (Jan. 1, 1962)		.50
28-29 (Rev. 1949)		2.50
Supp. (Jan. 1, 1962)		2.25
30-31 (Rev. Jan. 1, 1959)		3.50
Supp. (Jan. 1, 1962)		1.00
32 Parts:		
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590-699 (Rev. Jan. 1, 1962)		4.25
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800-999 (Rev. Jan. 1, 1960)		3.75
Supp. (Jan. 1, 1962)		.50
1000-1099 (Rev. Jan. 1, 1960)		6.50
Supp. (Jan. 1, 1962)		1.75
1100-end (Rev. Jan. 1, 1962)		4.50
32A (Rev. Jan. 1, 1958)		5.00
Supp. (Jan. 1, 1962)		.75
33 (Rev. Jan. 1, 1962)		8.25
34 Reserved		
35 (Rev. Jan. 1, 1960)		3.50
Supp. (Jan. 1, 1962)		.30
36 (Rev. Jan. 1, 1960)		3.00
Supp. (Jan. 1, 1962)		.35
37 (Rev. Jan. 1, 1960)		3.50
Supp. (Jan. 1, 1962)		.30
38 (Rev. 1956)		8.00
Supp. (Jan. 1, 1962)		1.25
39 (Rev. Jan. 1, 1962)		5.25
40-41 (Rev. Jan. 1, 1962)		1.75
42 (Rev. Jan. 1, 1960)		4.00
Supp. (Jan. 1, 1962)		.40
43 (Rev. 1954)		( <sup>1</sup> )
Supp. (Jan. 1, 1962)		1.25
44 (Rev. Jan. 1, 1960)		3.25
Supp. (Jan. 1, 1962)		.30
45 (Rev. Jan. 1, 1960)		3.75
Supp. (Jan. 1, 1962)		.45
46 Parts:		
1-145 (Rev. 1952)		( <sup>1</sup> )
Supp. (Jan. 1, 1962)		1.50
146-149 (Rev. Jan. 1, 1960)		6.00
Supp. (July 1, 1962)		1.50
150-end (Rev. Jan. 1, 1958)		6.25
Supp. (Jan. 1, 1962)		1.25
47 Parts:		
1-29 (Rev. Jan. 1, 1958)		7.50
Supp. (Jan. 1, 1962)		1.50
30-end (Rev. Jan. 1, 1958)		4.75
Supp. (Jan. 1, 1962)		.40
48 Reserved		

	CFR Unit	Price
49 Parts:		
1-70 (Rev. 1949)		\$3.00
Supp. (Jan. 1, 1962)		1.00
71-90 (Rev. 1956)		( <sup>1</sup> )
Supp. (Jan. 1, 1962)		1.25
91-164 (Rev. Jan. 1, 1958)		5.00
Supp. (Jan. 1, 1962)		.55
165-end (Rev. Jan. 1, 1961)		5.00
Supp. (Jan. 1, 1962)		.30
50 (Rev. Jan. 1, 1961)		3.75
Supp. (Jan. 1, 1962)		.40
General Index (Rev. 1955)		4.75
Supp. (Jan. 1, 1962)		1.25

## Title 49—TRANSPORTATION

### Chapter I—Interstate Commerce Commission

#### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Docket No. 3666; Order No. 56]

### PARTS 71-78—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

#### Miscellaneous Amendments

At a session of the Interstate Commerce Commission, Safety and Service Board No. 2—Explosives and Other Dangerous Articles Board, held in Washington, D.C., on the 20th day of November 1962.

The matter of certain regulations governing the transportation of explosives and other dangerous articles, formulated and published by the Commission, being under consideration, and

It appearing, that Notice No. 56, dated August 30, 1962, setting forth certain proposed amendments to the said regulations, and the reasons therefor, and stating that consideration was to be given thereto, was published in the FEDERAL REGISTER on September 20, 1962 (27 F.R. 9333), pursuant to the provisions of section 4 of the Administrative Procedure Act; that pursuant to said Notice interested parties were given an opportunity to be heard with respect to said proposed amendments; that written views or arguments were submitted to the Commission with respect to the proposed amendments;

And it further appearing, that said views and arguments with respect to the proposed amendments are such as to warrant revision at this time of certain of the proposed amendments, and that in all other respects the proposed amendments set forth in the above referred-to Notice No. 56 are deemed justified and necessary;

It is ordered, That the aforesaid regulations governing the transportation of explosives and other dangerous articles be, and they are hereby, amended in the manner and to the extent set forth in said Notice No. 56, dated August 30, 1962, as revised by the specific modifications, deletions, and additions set forth as follows:

In § 72.5 paragraph (a), amend the commodity description "Starter cartridges, jet engine, class C explosives".

In § 73.22, delete the proposed addition of paragraph (k).

In § 73.51, amend paragraph (h).

In § 73.93, delete the proposed amendment of paragraph (e) (2).

In § 73.119, delete the proposed amendments of paragraphs (a) (24), and (b) (8).

In § 73.121, delete the proposed addition of paragraph (a) (7).

In § 73.125, delete the proposed amendment of paragraph (a) (5).

In § 73.221, delete the proposed amendment of paragraph (a) (7).

In § 73.223, delete the proposed addition of paragraph (a) (5).

Amend § 73.238 by adding Note 1 to follow paragraph (a) (3).

In § 73.245, delete the proposed amendment of paragraph (a) (16).

In § 73.257, delete the proposed amendment of paragraph (a) (13).

In § 73.262, delete the proposed amendments of paragraphs (a) (10), and (b) (2).

In § 73.263, delete the proposed amendment of paragraph (a) (17) and (20).

In § 73.264, delete the proposed amendment of paragraph (a) (17) and (18).

In § 73.265, delete the proposed amendment of paragraph (d) (3).

In § 73.266, delete the proposed amendment of paragraph (b) (6).

In § 73.272, delete the proposed amendment of paragraph (f) (3) and (6).

In § 73.277, delete the proposed amendment of paragraph (a) (4).

In § 73.346, delete the proposed amendment of paragraph (a) (20).

Delete the proposed cancellation of § 78.59-9 and instead amend § 78.59-9 paragraph (a).

In § 78.82-7 paragraph (a) table, delete the proposed cancellation of footnotes 4, 5, and 6. Delete the proposed cancellation of § 78.82-15.

In § 78.100-5 paragraph (a) table, delete the proposed cancellation of footnotes 2, 3, 4, and 5.

In § 78.100-7, delete the proposed cancellation of Note 2 to paragraph (b).

Delete the proposed cancellation of § 78.100-12.

Delete the proposed addition of §§ 78.102, 78.102-1, 78.102-2, 78.102-3, 78.102-4.

In § 78.131-6 paragraph (a) table, delete the proposed cancellation and redesignation of footnotes 4, 5, 6, 7 and 8, and footnote references in table heading.

Delete the proposed cancellation of § 78.131-12.

In § 78.131-11, amend that part of paragraph (b) reading "% retained on 49 mesh-Trace (max.)".

Delete the proposed addition §§ 78.134, 78.134-1, 78.134-2, 78.134-3, 78.134-4.

It is further ordered, That this order shall become effective February 17, 1963, and shall remain in effect until further order of the Commission;

It is further ordered, That compliance with the herein prescribed and amended regulations is hereby authorized on and after the date of service of this order;

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

(62 Stat. 738, 74 Stat. 808; 18 U.S.C. 834).

By the Commission, Safety and Service Board No. 2—Explosives and Other Dangerous Articles Board.

[SEAL] HAROLD D. MCCOY, Secretary.

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

Amend § 72.5 Commodity list (15 F.R. 8263, 8264, 8268, 8272, 8273, Dec. 2, 1950) 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)				
Tank cars, empty (last contents poisons, class A).	See § 74.562 (d) and (e).			
(Add)				
Aircraft rocket engines (commercial)	F.S.	No exemption, 73.238	Yellow	550 pounds.
Aircraft rocket engine igniters (commercial)	F.S.	No exemption, 73.238	Yellow	25 pounds.
Barium azide—50 percent or more water wet.	F.S.	No exemption, 73.239	Yellow	1 pound.
Hydraulic accumulators (pressurized with nonflammable, nonliquefied compressed gas).	See § 73.313(b)			
Starter cartridges, jet engine, class C explosives.	Expl. C	No exemption, 73.102		150 pounds.

**PART 73—SHIPPERS**

**Subpart A—Preparation of Articles for Transportation by Carriers by Rail Freight, Rail Express, Highway, or Water**

In § 73.22 add paragraph (j) (15 F.R. 8277, Dec. 2, 1950) to read as follows:

§ 73.22 Specification containers prescribed.

\* \* \* \* \*

(j) Specs. 42B and 42D (§§ 78.107 and 78.109 of this chapter) aluminum drums having rolling hoops attached to drums by tack-welding and manufactured prior to February 28, 1960 may be continued

in service until further order of the Commission.

\* \* \* \* \*

In § 73.32 amend paragraph (o) (15 F.R. 8280, Dec. 2, 1950) to read as follows:

§ 73.32 Qualification, maintenance, and use of portable tanks.

\* \* \* \* \*

(o) Each tank for carbon dioxide and nitrous oxide shall be lagged with a suitable insulation material of such thickness that the overall thermal conductance is not more than 0.08 Btu per square foot per degree F. differential in temperature per hour. The conductance shall be determined at 60° F. Insulation material used on tanks for nitrous oxide shall be noncombustible.

\* \* \* \* \*

In § 73.34 amend paragraph (j) (3); amend paragraph (k) (12) Table; add paragraphs (k) (14) (iv) and (16) (15 F.R. 8284, Dec. 2, 1950) (25 F.R. 10390, Oct. 29, 1960) (24 F.R. 10110, Dec. 15, 1959) to read as follows:

§ 73.34 Qualification, maintenance, and use of cylinders.

\* \* \* \* \*

(j) \* \* \*

(3) Records giving data showing the results of the tests made on all cylinders must be kept, and each cylinder passing the test must be marked with the date (month and year) plainly and permanently stamped into the metal of the cylinder. For example, 4-50 for April 1950. Dates of previous tests must not be obliterated. Records showing the results of reinspection and retest must be kept by the owner or his authorized agent until either expiration of the retest period, or until the cylinder is again re-inspected or retested, whichever occurs first.

(k) \* \* \*

(12) \* \* \*

Cylinders made in compliance with—	Used exclusively for—
ICC-3A480, ICC-3AA480, ICC-3A480X, ICC-4B, ICC-4BA, ICC-26-240 <sup>1</sup> or ICC-26-300 <sup>1</sup> .	Liquefied petroleum gas which is commercially free from corroding components.
ICC-4, ICC-3A480, ICC-3AA480, ICC-3A480X, ICC-4A480, or ICC-4AA480.	Anhydrous ammonia of at least 99.95 percent purity.
ICC-3A480, ICC-3AA480, ICC-3A480X, ICC-4B300 or ICC-4BA300.	Fluorinated hydrocarbons and mixtures thereof which are commercially free from corroding components.
ICC-3A480, ICC-3AA480, ICC-3A480X, ICC-4B, ICC-4BA, ICC-26-240 <sup>1</sup> or ICC-26-300 <sup>1</sup> .	Butadiene, inhibited, which is commercially free from corroding components.
ICC-3A480, ICC-3AA480, ICC-3A480X, ICC-4B, ICC-4BA, ICC-26-240 <sup>1</sup> or ICC-26-300 <sup>1</sup> .	Liquefied hydrocarbon gas which is commercially free from corroding components.

\* \* \* \* \*

(14) \* \* \*

(iv) Retest dates shall be applied by low stress type steel stamping to a depth no greater than that of the original marking at the time of manufacture. Stamping on sidewall not authorized.

\* \* \* \* \*

(16) Cylinders made in compliance with specifications ICC-3A, 3AA, 3B, 4A, 4BA (§§ 78.36, 78.37, 78.38, 78.49, and 78.51 of this chapter), having service

pressures up to and including 300 pounds per square inch, used exclusively for methyl bromide, liquid, mixtures of methyl bromide and ethylene dibromide, liquid, mixtures of methyl bromide and chlorpicrin, liquid, mixtures of methyl bromide and petroleum solvents, liquid, or methyl bromide and nonflammable, nonliquefied compressed gas mixtures, liquid, commercially free from corroding components, and protected externally by suitable corrosion resisting coatings (such as galvanizing, painting, etc.) and internally by a suitable corrosion resisting lining (galvanized, etc.) may be tested decennially instead of quinquennially. All tests must be supplemented by a visual internal and external examination of the cylinder quinquennially. Examination shall be as required by the Compressed Gas Association's "Standard for Visual Inspection of Compressed Gas Cylinders." (CGA Pamphlet C-6-1959, available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.) All tests must be supplemented by a very careful examination of the cylinder at each filling, and the cylinder must be rejected if evidence is found of bad dents, corroded areas, a leak or other conditions that indicate possible weakness which would render the cylinder unfit for service.

**Subpart B—Explosives; Definitions and Preparation**

In § 73.51 amend paragraph (h) (20 F.R. 949, Feb. 15, 1955) to read as follows:

**§ 73.51 Forbidden explosives.**

(h) Firecrackers, flash crackers, salutes, or similar commercial devices which produce or are intended to produce an audible effect, the explosive content of which exceeds 12 grains each in weight, and pest control bombs, the explosive content of which exceeds 18 grains each in weight; and any such devices, without respect to explosive content, which on functioning are liable to project or disperse metal, glass or brittle plastic fragments.

In § 73.100 amend the introductory text of paragraph (r); add paragraph (ee) (21 F.R. 7599, Oct. 4, 1956) (15 F.R. 8295, Dec. 2, 1950) to read as follows:

**§ 73.100 Definition of class C explosives.**

(r) Common fireworks are fireworks devices suitable for use by the public and designed primarily to produce visible effects by combustion. Some small devices designed to produce audible effects are also included in this class. The types, sizes and amount of pyrotechnic contents of these devices are limited as enumerated in this paragraph. No component, of any device listed in this paragraph, which produces or is intended to produce an audible effect shall contain pyrotechnic composition in excess of 2 grains in weight; nor shall such device or component, upon functioning, project or

disperse any metal, glass or brittle plastic fragments. (Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as designed to produce audible effects.) Any new device, not enumerated in this paragraph, must be approved by the Bureau of Explosives before being offered for transportation as Common Fireworks. Common fireworks must be in a finished state exclusive of mere ornamentation as supplied to the retail trade and must be so constructed and packed that loose pyrotechnic composition will not be present in packages in transportation. Fireworks, except articles defined in paragraphs (s) through (y) inclusive, of this section, other than common fireworks as defined in this paragraph, and those forbidden for transportation in § 73.51, are classed as Special Fireworks (see § 73.88(d)).

(ee) Starter cartridges, jet engine, class C, consist of a metal, plastic, and/or rubber case, each containing a pressed cylindrical block of flammable solid material and having in the top of the case a small compartment that encloses an electric squib, small amount of black powder, and/or smokeless powder which constitute an igniter. The starter cartridge is used to activate a mechanical starter for jet engines and must be of a type approved by the Bureau of Explosives except as provided in § 73.51(q) and § 73.86(a).

In § 73.101 amend paragraph (a) (24 F.R. 3596, May 5, 1959) to read as follows:

**§ 73.101 Small-arms ammunition.**

(a) Small-arms ammunition must be packed in pasteboard or other inside boxes, or in partitions designed to fit snugly in the outside container, or must be packed in metal clips. The partitions and metal clips must be so designed as to protect the primers from accidental injury. The inside boxes, partitions and metal clips must be packed in securely closed strong outside wooden or fiberboard boxes or metal containers. Blank Industrial Power Load cartridges, similar to the 22 long rim-fire cartridge, may be packed in bulk in securely closed fiberboard boxes.

In § 73.102 amend the heading and introductory text of paragraph (a); amend paragraphs (a)(2) and (b) (23 F.R. 7647, Oct. 3, 1958) (26 F.R. 1014, Feb. 2, 1961) (25 F.R. 3100, Apr. 12, 1960) to read as follows:

**§ 73.102 Explosive cable cutters, explosive power devices, class C, explosive release devices, or starter cartridges, jet engine, class C.**

(a) Explosive cable cutters, explosive power devices, class C, explosive release devices, or starter cartridges, jet engine, class C must be packed in specification containers as follows:

(2) In addition to specification containers prescribed in this section, explosive cable cutters, explosive power devices, class C, explosive release devices,

or starter cartridges, jet engine, class C may be shipped when packed in strong wooden or metal boxes, or other containers approved by the Bureau of Explosives. Starter cartridges, jet engine, must have igniter wires short-circuited when packed for shipment.

(b) Each outside container must be plainly marked "EXPLOSIVE CABLE CUTTERS," "EXPLOSIVE POWER DEVICES, CLASS C," "EXPLOSIVE RELEASE DEVICES," or "STARTER CARTRIDGES, JET ENGINE, CLASS C" and "HANDLE CAREFULLY—KEEP FIRE AWAY."

**Subpart C—Flammable Liquids; Definition and Preparation**

In § 73.118 amend paragraph (a); cancel paragraph (b) and entire paragraph (c) (22 F.R. 2225, Apr. 4, 1957) (21 F.R. 3009, May 5, 1956) (15 F.R. 8293, Dec. 2, 1950) (16 F.R. 9374, Sept. 15, 1951) (16 F.R. 11777, Nov. 21, 1951) (17 F.R. 1561, Feb. 20, 1952) (17 F.R. 4294, May 10, 1952) (21 F.R. 4432, June 23, 1956) (18 F.R. 5271, Sept. 1, 1953) (20 F.R. 8100, Oct. 28, 1955) (22 F.R. 7835, Oct. 3, 1957) (27 F.R. 3427, Apr. 11, 1962) (23 F.R. 7647, Oct. 3, 1958) (21 F.R. 7599, Oct. 4, 1956) (23 F.R. 2324, Apr. 10, 1958) (26 F.R. 12702, Dec. 29, 1961) to read as follows:

**§ 73.118 Exemptions for flammable liquids.**

(a) Flammable liquids, except those for which no exemptions are provided as indicated by the "No exemption" statement in § 72.5 of this chapter are, unless otherwise provided, exempt from specification packaging, marking, and labeling requirements when packed in accordance with the following subparagraphs of this paragraph 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 of this chapter, except § 77.817, and Part 197 of this chapter.

(1) In metal containers not over 1 quart capacity each, packed in strong outside containers.

(2) In containers having a capacity not over 1 pint or 16 ounces by weight each, packed in strong outside containers.

(b) [Canceled.]

(c) [Canceled.]

In § 73.119 amend paragraph (m) (4) (19 F.R. 1277, Mar. 6, 1954) to read as follows:

**§ 73.119 Flammable liquids not specifically provided for.**

(m) \* \* \*

(4) Spec. 5, 5A, 5B, 5C, 17C (single-trip), or 17E (single-trip) (§ 78.80, 78.81, 78.82, 78.83, 78.115 or 78.116 of this chapter). Metal barrels or drums not over 16 gallons capacity. Authorized only for materials which will not react dangerously with the drum metal, or be decomposed by contact with it.

In § 73.123 amend paragraph (a) (5) (22 F.R. 4789, July 9, 1957) to read as follows:

### § 73.123 Ethyl chloride.

(a) \* \* \*

(5) Spec. 105A100, 105A100-W, 105-A200-W, 105A300-W, 105A400-W, 105-A500-W, 105A600-W, 111A100-W-4, 112A400-W, or ARA-IV-A<sup>1</sup> (§§ 78.270, 78.285, 78.307, 78.286, 78.287, 78.288, 78.289, 78.306, 78.312 of this chapter). Tank cars. See Note 1 of § 73.119(f) (3). (See § 73.432 for shipping instructions.)

\* \* \* \* \*

In § 73.125 amend paragraph (a) (7) (26 F.R. 1014, Feb. 2, 1961) to read as follows:

### § 73.125 Alcohol.

(a) \* \* \*

(7) Spec. 12P (§ 78.211 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures.

### Subpart D—Flammable Solids and Oxidizing Materials; Definition and Preparation

In § 73.153 amend paragraph (a); cancel entire paragraph (c) (21 F.R. 364, Jan. 19, 1956) (21 F.R. 3010, May 5, 1956) (15 F.R. 8303, Dec. 2, 1950) (17 F.R. 7281, Aug. 9, 1952) (16 F.R. 5324, June 6, 1951) (18 F.R. 3135, June 2, 1953) (23 F.R. 4029, June 10, 1958) (17 F.R. 4294, May 10, 1952) (17 F.R. 9837, Nov. 1, 1952) (18 F.R. 6777, Oct. 27, 1953) (21 F.R. 671, Jan. 31, 1956) (24 F.R. 904, Feb. 6, 1959) (22 F.R. 11031, Dec. 31, 1957) (24 F.R. 10110, Dec. 15, 1959) (25 F.R. 3100, April 12, 1960) (26 F.R. 9401, Oct. 6, 1961) to read as follows:

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

(a) Flammable solids and oxidizing materials, except those for which no exemptions are provided as indicated by the "No exemption" statement in § 72.5 of this chapter, in inside containers not over 1 pound net weight each, in outside containers not exceeding 25 pounds net weight each 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 of this chapter, except § 77.817, and Part 197 of this chapter. (See § 73.182 for exemptions for nitrates, and paragraph (b) of this section for exemptions for organic peroxides.)

\* \* \* \* \*

(c) [Canceled.]

In § 73.164 add paragraph (a) (5) (15 F.R. 8305, Dec. 2, 1950) to read as follows:

### § 73.164 Chromic acid.

(a) \* \* \*

(5) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with metal in-

side containers which must have closing device securely fastened by positive means (not friction), not over 1-gallon capacity each. Not more than 4 metal containers shall be packed in one outside box.

In § 73.188 add paragraph (a) (6) (15 F.R. 8308, Dec. 2, 1950) to read as follows:

### § 73.188 Phosphoric anhydride.

(a) \* \* \*

(6) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles of 1/3 fluid ounce capacity each. Each bottle shall be packed in a heat-sealed polyethylene bag and not more than 75 such units shall be packed in a heat-sealed polyethylene bag, which shall be placed in a securely closed metal can. Not more than 1 can shall be packed in one outside box.

\* \* \* \* \*

In § 73.221 amend paragraph (a) (9) (26 F.R. 1014, Feb. 2, 1961) to read as follows:

§ 73.221 Liquid organic peroxides, n.o.s. and liquid organic peroxide solutions, n.o.s. other acetyl peroxide solution, acetyl benzoyl peroxide solution, cumene hydroperoxide, dicumyl peroxide, hydrogen peroxide, peracetic acid, and tertiary butylisopropyl benzene hydroperoxide.

(a) \* \* \*

(9) Spec. 12P (§ 78.211 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures.

\* \* \* \* \*

Add § 73.238 (15 F.R. 8312, Dec. 2, 1950) to read as follows:

### § 73.238 Aircraft rocket engines (commercial).

(a) Aircraft rocket engines (commercial) and/or their igniters may be offered for transportation by rail freight, rail express, highway or water, when of a type approved by the Bureau of Explosives and when packaged and packed as follows:

(1) Spec. 15A, 15B, 15E or 16A (§ 78.168, 78.169, 78.172 or 78.185 of this chapter). Wooden boxes. Igniters must be packaged in sealed metal containers approved by the Bureau of Explosives and packed in wooden boxes as specified above when shipped separately from the Aircraft rocket engines.

(2) Aircraft rocket engines (commercial), when approved by the Bureau of Explosives, may be packed in the same outside shipping container with their separately packaged igniters. Igniters must be packed in separate sealed metal containers in strong inside containers.

(3) Aircraft rocket engines (commercial) and/or their igniters, packed in any other manner than specified in subparagraphs (1) and (2) of this paragraph,

must be in containers of a type approved by the Bureau of Explosives.

NOTE 1: For purposes of § 73.238, aircraft pocket engines (commercial) are standby aircraft propulsion engines which are for civil aircraft installation only, comprising a metal case containing a solid composite fuel other than one classified as an explosive and containing no explosive material or element.

Add § 73.239 (15 F.R. 8312, Dec. 2, 1950) to read as follows:

### § 73.239 Barium azide—50 percent or more water wet.

(a) Barium azide—50 percent or more water wet, must be packed in specification containers as follows:

(1) Spec. 15A, 15B, 15C, 16A, or 19A (§ 78.168, 78.169, 78.170, 78.185, or 78.190 of this chapter). Wooden boxes with inside glass bottles not over one pound capacity each. Bottles shall have rubber stoppers wire tied for securement. If shipment is to take place at a time freezing weather is to be anticipated, a suitable antifreeze solution must be used to prevent freezing.

### Subpart E—Acids and Other Corrosive Liquids; Definition and Preparation

In § 73.244 amend paragraph (a); cancel entire paragraph (c) (21 F.R. 365, Jan. 19, 1956) (21 F.R. 3010, May 5, 1956) (15 F.R. 8313, Dec. 2, 1950) (22 F.R. 11031, Dec. 31, 1957) (21 F.R. 671, Jan. 31, 1956) (27 F.R. 3428, April 11, 1962) to read as follows:

### § 73.244 Exemptions for acids and other corrosive liquids.

(a) Acids and other corrosive liquids, except those for which no exemptions are provided as indicated by the "No exemption" statement in § 72.5 of this chapter, in inside bottles having a capacity not over 1 pound or 16 ounces by volume each enclosed in a metal can in the outside container 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 of this chapter, except § 77.817, and Part 197 of this chapter.

\* \* \* \* \*

(c) [Canceled.]

In § 73.245 amend paragraph (a) (21) (26 F.R. 1015, Feb. 2, 1961) to read as follows:

### § 73.245 Acids or other corrosive liquids not specifically provided for.

(a) \* \* \*

(21) Spec. 12P (§ 78.211 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures.

\* \* \* \* \*

In § 73.247 amended paragraphs (a) (13) and (14) (26 F.R. 4995, June 6, 1961) (24 F.R. 8058, Oct. 6, 1959) to read as follows:

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

(a) \* \* \*

(13) Spec. 103A, 103A-W, 105A300-W, 105A400-W, 105A500-W, 105A600-W, 111A100-F-2, or 111A100-W-2 (§ 78.266, 78.281, 78.286, 78.287, 78.288, 78.289, or 78.304 of this chapter) tank cars, except that for tin tetrachloride (anhydrous) spec. 105A300-W, 105A400-W, 105A500-W, or 105A600-W (§ 78.286, 78.287, 78.288, or 78.289 of this chapter) tank cars must be used.

(14) Spec. 103A, 103A-W, 111A100-F-2, or 111A100-W-2 (§ 78.266, 78.281, or 78.304 of this chapter). Tank cars. Authorized for titanium tetrachloride, anhydrous only. Tank cars shall have safety valves of approved design and not subject to rapid deterioration by the lading.

In § 73.255 add paragraph (a) (5) (15 F.R. 8315, Dec. 2, 1950) to read as follows:

§ 73.255 Dimethyl sulfate.

(a) \* \* \*

(5) Spec. MC 310 or MC 311 (§ 78.330 or 78.331 of this chapter). Tank motor vehicles.

In § 73.260 add paragraph (b) (3) (15 F.R. 8316, Dec. 2, 1950) to read as follows:

§ 73.260 Electric storage batteries, wet.

(b) \* \* \*

(3) Not more than five batteries not over 10 pounds each may be packed in strong outside fiberboard or wooden boxes, when securely cushioned and packed to prevent short circuits; specification container not required. Authorized gross weight 65 pounds.

In § 73.263 amend paragraph (a) (23) (26 F.R. 1015, Feb. 2, 1961) 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) \* \* \*

(23) Spec. 12P (§ 78.211 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures.

In § 73.271 add paragraph (a) (17) (15 F.R. 8321, Dec. 2, 1950) to read as follows:

§ 73.271 Phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

(a) \* \* \*

(17) Spec. 5M (§ 78.90 of this chapter). Monel drums not over 10 gallons capacity each.

In § 73.272 amend paragraph (f) (8); amend paragraph (h) (3) (26 F.R. 1015, Feb. 2, 1961) (22 F.R. 4791, July 9, 1957) to read as follows:

§ 73.272 Sulfuric acid.

(f) \* \* \*

(8) Spec. 12P (§ 78.211 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures.

(h) \* \* \*

(3) Spec. 103A, 103A-W, or 111A100-W-2 (§ 78.266, 78.281, or 78.304 of this chapter). Tank cars. Tank cars used for sulfuric acid, mixed acid (nitric and sulfuric) (nitrating acid), and other fuming acids, may be equipped with safety vents incorporating lead discs having a 1/8 inch breather hole in the center thereof. The 1/8 inch breather hole in lead discs of safety vents on oleum tank cars is not permitted.

In § 73.276 amend paragraph (a) (4) (23 F.R. 7649, Oct. 3, 1958) to read as follows:

§ 73.276 Anhydrous hydrazine and hydrazine solution.

(a) \* \* \*

(4) Spec. 103C-W (§ 78.283 of this chapter). Tank cars having tanks of type 304L or 347 stainless steel. Vapor space in tank must be filled with nitrogen gas at atmospheric pressure.

In § 73.277 amend paragraph (a) (5) (26 F.R. 1015, Feb. 2, 1961) to read as follows:

§ 73.277 Hypochlorite solutions.

(a) \* \* \*

(5) Spec. 12P (§ 78.211 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures.

**Subpart F—Compressed Gases; Definition and Preparation**

In § 73.301 amend paragraph (b) Note 2 (20 F.R. 4417, June 23, 1955) to read as follows:

§ 73.301 General requirements.

(b) \* \* \*

NOTE 2: The use of 1.0 pound of ethyl mercaptan, 1.0 pound of thiophane, or 1.4

pounds of amyl mercaptan per 10,000 gallons of liquefied petroleum gas shall be considered sufficient to meet the requirements of § 73.301(b). (This note does not exclude the use of any other odorant in sufficient quantity to meet the requirements of § 73.301(b).)

\* \* \* \* \*

In § 73.313 amend entire paragraph (a); amend introductory text of paragraph (b) (24 F.R. 906, Feb. 6, 1959) (21 F.R. 367, Jan. 19, 1956) to read as follows:

§ 73.313 Refrigerating machines and hydraulic accumulators.

(a) Refrigerating machines or components thereof which are factory-made, factory-tested and intended to be shipped only once to the point of installation, containing not over 1,000 pounds of Group 1 refrigerant as classified in American Standard Safety Code for Mechanical Refrigeration (ASA-B9.1-1958) (or 50 pounds of refrigerant other than Group 1) in each pressure vessel and containing an aggregate of not more than 2,000 pounds of Group 1 refrigerant (or 100 pounds of refrigerant other than Group 1) when containing more than two charged vessels, when shipped under the following conditions are 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 of this chapter, except § 77.817, and Part 197 of this chapter.

(1) Each pressure vessel shall be equipped with a safety device meeting the requirements of the American Standard Safety Code for Mechanical Refrigeration (ASA-B9.1-1958). In a refrigerating machine containing more than one pressure vessel, each pressure vessel shall be equipped with individual shutoff valve or valves which shall be closed while in transportation. Such pressure vessels shall be manufactured, tested and inspected in accordance with American Standard B9.1-1958 and when over 6 inches internal diameter, in accordance with Section VIII of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (1959 edition including all addendas through the Winter 1961 Addenda issued December 29, 1961). All parts subject to refrigerant pressure during shipment must be tested in accordance with American Standard B9.1-1958.

(2) The liquid portion of the refrigerant, if any, must not completely fill any pressure vessel at 130° F.

(3) The amount of refrigerant, if liquefied, must not exceed the filling densities prescribed in § 73.308 or § 73.312.

(b) Hydraulic accumulators: Hydraulic accumulators and component parts thereof containing nonliquefied, nonflammable gas for the purpose of operation when shipped under the following conditions are 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 of this chapter, except § 77.817, and Part 197 of this chapter.

In § 73.314 amend paragraph (a) Table and amend the introductory text

Kind of gas	Maximum permitted filling density, Note 1	Required type of tank car, Note 2
(Change)	Percent	
Vinyl chloride (Note 14)-----	84-----	ICC-106A500, 106A500-X, Note 12.
	87-----	ICC-105A200-W, Notes 9 and 22.
(Add)	86-----	ICC-112A400-W, Note 9.
Butadiene (pressure not exceeding 300 pounds per square inch at 115° F.), inhibited.	Notes 3 and 6	ICC-112A400-W, Notes 5 and 9.

NOTE 3: \* \* \* (c) Maximum permitted filling density in unlagged (uninsulated) single-unit tank cars transporting liquefied petroleum gas or butadiene of specific gravity shown taken at 60 degrees Fahrenheit.

Specific gravity	Filling density	Specific gravity	Filling density
(Add)		(Add)	
0.600-----	56.62	0.618-----	58.66
0.601-----	56.73	0.619-----	58.77
0.602-----	56.84	0.620-----	58.89
0.603-----	56.95	0.621-----	59.00
0.604-----	57.07	0.622-----	59.12
0.605-----	57.18	0.623-----	59.23
0.606-----	57.30	0.624-----	59.34
0.607-----	57.41	0.625-----	59.46
0.608-----	57.52	0.626-----	59.57
0.609-----	57.64	0.627-----	59.68
0.610-----	57.76	0.628-----	59.80
0.611-----	57.87	0.629-----	59.91
0.612-----	57.98	0.630-----	60.02
0.613-----	58.09	0.631-----	60.13
0.614-----	58.21	0.632-----	60.23
0.615-----	58.32	0.633-----	60.34
0.616-----	58.43	0.634-----	60.44
0.617-----	58.55	0.635-----	60.55

**Subpart G—Poisonous Articles; Definition and Preparation**

In § 73.345 amend the introductory text of paragraph (a); cancel entire paragraph (b) (21 F.R. 367, Jan. 19, 1956) (21 F.R. 3012, May 5, 1956) (15 F.R. 8313, Dec 2., 1950) (16 F.R. 5327, June 6, 1951) (16 F.R. 9378, Sept. 15, 1951) (19 F.R. 1280, Mar 6, 1954) (24 F.R. 906, Feb. 6, 1959) (23 F.R. 2328, April 10, 1958) (25 F.R. 10395, Oct. 29, 1960) to read as follows:

§ 73.345 Exemptions for poisonous liquids, class B.

(a) Poisonous liquids, class B, as defined in § 73.343, except those for which no exemptions are provided as indicated by the "No exemption" statement in § 72.5 of this chapter, or as provided for in § 73.359(c), in tightly closed inside containers, securely cushioned when necessary to prevent breakage and packed as follows, are 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 of this chapter, except § 77.817, and Part 197 of this chapter.

(b) [Canceled]

of Note 3(c) and add to the table thereto (26 F.R. 9402, Oct. 6, 1961) (22 F.R. 2227, Apr. 4, 1957) (22 F.R. 7837, Oct. 3, 1957) to read as follows:

§ 73.314 Compressed gases in tank cars.

(a) \* \* \*

In § 73.346 amend paragraph (a) (24) (24 F.R. 10111, Dec. 15, 1959) to read as follows:

§ 73.346 Poisonous liquids not specifically provided for.

(a) \* \* \*

(24) Spec. 12P (§ 78.211 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections, that could cause failures.

In § 73.348 add paragraph (a) (3) (24 F.R. 8059, Oct. 6, 1959) to read as follows:

§ 73.348 Arsenic acid.

(a) \* \* \*

(3) Spec. 12A or 12B (§ 78.210 or 78.205 of this chapter). Fiberboard boxes with inside high-density polyethylene bottles having minimum wall thickness of 0.015 inch with screw-cap closures, not over 1 gallon capacity each. Spec. 12A (§ 78.210 of this chapter) fiberboard boxes shall have not more than four inside polyethylene bottles which shall be packed to provide a snug fit. Spec. 12B (§ 78.205 of this chapter) fiberboard boxes shall contain not more than one inside polyethylene bottle and not more than four such boxes shall be overpacked in a strong outside fiberboard box under provisions of § 73.25.

In § 73.354 amend the introductory text of paragraph (a) (27 F.R. 3429, Apr. 11, 1962) to read as follows:

§ 73.354 Motor fuel antiknock compound or tetraethyl lead.

(a) Motor fuel antiknock compound (a mixture of one or more organic lead compounds such as tetraethyl lead, triethylmethyl lead, diethyldimethyl lead, ethyltrimethyl lead, and tetramethyl lead, with one or more halogen compounds such as ethylene dibromide and ethylene dichloride, hydrocarbon solvents or other equally efficient stabilizers) or tetraethyl lead must be packed in specification containers as follows:

In § 73.359 amend paragraph (a) (11) (27 F.R. 6739, July 17, 1962) to read as follows:

§ 73.359 Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, organic phosphate compound mixtures, n.o.s., parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, liquid.

(a) \* \* \*

(11) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside high-density polyethylene bottles not over 1-gallon capacity each. Polyethylene bottles must have a minimum wall thickness of 0.015 inch and be equipped with screw-cap closures additionally taped for securement. Each polyethylene bottle shall be packed in an inside fiberboard box. Not more than four inside fiberboard boxes with inside polyethylene bottles shall be packed in one outside shipping container. Polyethylene used in construction of inside polyethylene bottles must be of a type compatible with the lading and shall prevent permeation of contents to a degree that would cause a hazardous condition in transportation and handling.

**PART 74—CARRIERS BY RAIL FREIGHT**

**Subpart A—Loading, Unloading, Placarding and Handling Cars; Loading Packages Into Cars**

In § 74.532 amend paragraph (c) (22 F.R. 3926, June 5, 1957) to read as follows:

§ 74.532 Loading other dangerous articles.

(c) Packages protected by labels or exempted from labels by § 73.402(c) of this chapter must be so loaded that they cannot fall and in such a manner that other packages cannot fall onto or slide against them. This does not preclude the use of loading methods that are designed to permit movement of the load and that are acceptable to the Bureau of Explosives. Packages bearing marking "This Side Up" or "This End Up" must be so loaded. Dangerous articles for which red, yellow, green, or white (acid, alkaline caustic liquid, or corrosive liquid) labels are prescribed herein must not be loaded in the same car with explosives named in §§ 73.53 to 73.87 of this chapter. (See loading and storage chart § 74.538.) Packages protected by yellow labels must not be loaded in the same end of a car with packages protected by "Acid", "Alkaline Caustic Liquid", or "Corrosive Liquid" labels, except that shippers loading carload shipments, who have obtained prior approval from the Bureau of Explosives, may load such articles together when it is known that the mixture of contents would not cause a dangerous evolution of heat or gas.

**Subpart C—Placards on Cars**

In § 74.551 amend the introductory text of paragraph (a) (15 F.R. 8351, Dec. 2, 1950) to read as follows:

§ 74.551 Poison gas placard.

(a) The "Poison gas" placard for other than tank cars must be of rectangular shape, measuring 10 x 14 1/4 inches, and must bear the wording as shown in the following cut; the printing must be in red as follows:

(No change in placard.)

\* \* \* \* \*

Subpart E—Handling by Carriers by Rail Freight

In § 74.589 amend paragraphs (h) (9), (j) (9) and (10), (k) (1) (ix) and (x) (15 F.R. 4296, May 10, 1952) (25 F.R. 10397, Oct. 29, 1960) (27 F.R. 6740, July 17, 1962) to read as follows:

§ 74.589 Handling cars.

\* \* \* \* \*

(h) \* \* \* \* \*  
(9) Car, with automatic refrigeration or heating apparatus in operation; car, with open-flame apparatus in service or with internal combustion engine in operation.

\* \* \* \* \*

(j) \* \* \* \* \*  
(9) Car, trailers or truck bodies on flat car with automatic refrigeration or heating apparatus in operation; car, trailers or truck bodies on flat car with open-flame apparatus in service or with internal combustion engines in operation.

(10) Car, trailers or truck bodies on flat car containing lighted heaters, stoves or lanterns except when car is occupied by gas handlers or authorized personnel accompanying shipment.

\* \* \* \* \*

(k) \* \* \* \* \*  
(l) \* \* \* \* \*

(ix) Car, trailers or truck bodies on flat car with automatic refrigeration or heating apparatus in operation; car, trailers or truck bodies on flat car with open-flame apparatus in service or with internal combustion engines in operation.

(x) Car, trailers or truck bodies on flat car containing lighted heaters, stoves or lanterns except when car is occupied by gas handlers or authorized personnel accompanying shipment.

\* \* \* \* \*

PART 78—SHIPPING CONTAINER SPECIFICATIONS

Subpart C—Specifications for Cylinders

In § 78.36-4 amend paragraph (a) (15 F.R. 8381, Dec. 2, 1950) to read as follows:

§ 78.36 Specification 3A; seamless steel cylinders.

§ 78.36-4 Duties of inspector.

(a) Inspect all material and reject any not complying with requirements; for cylinders made by billet-piercing process, billets to be inspected after parting and shown to be free from pipe,

cracks, excessive segregation and other injurious defects.

\* \* \* \* \*  
In § 78.37-4 amend paragraph (a) (15 F.R. 8384, Dec. 2, 1950) to read as follows:

§ 78.37 Specification 3AA; seamless steel cylinders, made of definitely prescribed steels.

§ 78.37-4 Duties of inspector.

(a) Inspect all material and reject any not complying with requirements; for cylinders made by billet-piercing process, billets to be inspected after parting and shown to be free from pipe, cracks, excessive segregation and other injurious defects.

\* \* \* \* \*

In § 78.51-20 amend paragraph (a) Table Footnote 5 (16 F.R. 9380, Sept. 15, 1951) to read as follows:

§ 78.51 Specification 4BA; welded or brazed steel cylinders made of definitely prescribed steels.

§ 78.51-20 Authorized steel.

(a) \* \* \* \* \*  
\* Ferritic grain size 6 or finer, according to ASTM E-112-58T.

\* \* \* \* \*  
In § 78.57-2 amend paragraphs (b), (c); in § 78.57-9 amend paragraph (c); in § 78.57-17 paragraph (a) amend Footnote 4, paragraphs (b), the introductory text of (d), (1) and (2); in § 78.57-20 amend entire paragraph (a); in § 78.57-22 amend paragraph (a) Report Form (21 F.R. 7605, 7606, 7607, Oct. 4, 1956) (25 F.R. 10401, Oct. 29, 1960) to read as follows:

§ 78.57 Specification 4L; welded cylinders insulated.

§ 78.57-2 Type, size, service pressure<sup>1</sup> and service temperature.<sup>2</sup>

\* \* \* \* \*  
(b) The service pressure shall be more than 40 and not over 500 pounds per square inch.

(c) The service temperature shall be minus 320° F. or colder.

§ 78.57-9 Welding.

\* \* \* \* \*  
(c) For welding the cylinder, each procedure and operator shall be qualified in accordance with the sections that apply in the Compressed Gas Association's "Standards for Welding and Brazing on Thin Walled Containers" (CGA Pamphlet C-3-1954).<sup>3</sup> In addition, impact tests of the weld shall be performed in accordance with § 78.57-17(d) as part of the qualification of each welding procedure and operator.

\* \* \* \* \*

§ 78.57-17 Tests of welds.

(a) \* \* \* \* \*  
<sup>4</sup>The welded test plate shall be in the same condition and approximately the same thickness as the cylinder wall and shall be of material from one of the heats used in

the lot of cylinders which it represents, except test plates for impact tests shall comply with § 78.57-17(d) (1). The test plate shall be welded by the same welding procedure as used on the particular cylinder seam being qualified and shall be subjected to the same heat treatment.

(b) *Guided bend test.* A "root" bend test specimen shall be cut from the cylinder or welded test plate, used for the tensile test specified in § 78.57-17(a) and from any other seam or equivalent welded test plate if the seam is welded by a procedure different from that used for the major seam. Specimens shall be taken across the particular seam being tested and shall be prepared and tested in accordance with and shall meet the requirements of the Compressed Gas Association's "Standards for Welding and Brazing on Thin Walled Containers" (CGA Pamphlet C-3-1954).<sup>3</sup>

<sup>3</sup> Available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.

\* \* \* \* \*

(d) *Impact tests.* One set of three impact test specimens (for each test) shall be prepared and tested for determining the impact properties of the deposited weld metal (1) as part of the qualification of the welding procedure, (2) as part of the qualification of the operators, (3) for each "heat" of welding rod or wire used, and (4) for each 1,000 feet of weld made with the same heat of welding rod or wire.

(1) All impact test specimens shall be of the Charpy type, keyhole or milled U-notch, and shall conform in all respects to Figure 3 of ASTM E-23-60T. Each set of impact specimens shall be taken across the weld and have the notch located in the weld metal. When the cylinder material thickness is 2.5 mm or thicker, impact specimens shall be cut from a cylinder or welded test plate used for the tensile or bend test specimens. The dimension along the axis of the notch shall be reduced to the largest possible of 10 mm, 7.5 mm, 5mm or 2.5 mm, depending upon cylinder thickness. When the material in the cylinder or welded test plate is not of sufficient thickness to prepare 2.5 mm impact test specimens, 2.5 mm specimens shall be prepared from a welded test plate made from 1/8 inch thick material meeting the requirements specified in § 78.57-21(a), Table I, and having a carbon analysis of .05 minimum, but not necessarily from one of the heats used in the lot of cylinders. The test piece shall be welded by the same welding procedure as used on the particular cylinder seam being qualified and shall be subjected to the same heat treatment.

(2) Impact test specimens shall be cooled to the design service temperature. The apparatus for testing the specimens must conform to the requirements of ASTM Standard E-23-60T. The test piece, as well as the handling tongs, shall be cooled for a length of time sufficient to reach the service temperature. The temperature of the cooling device shall be maintained within a range of plus or

**RULES AND REGULATIONS**

minus 3° F. The specimen shall be quickly transferred from the cooling device to the anvil of the testing machine and broken within a time lapse of not more than six seconds.

**§ 78.57-20 Marking.**

(a) Marking required by stamping plainly and permanently on shoulder or top head of jacket or on a permanently attached plate or head protective ring as follows:

(1) ICC-4L followed by the service pressure (for example, ICC-4L200).

(2) ST followed by service temperature (for example, ST-423 F) on cylinders having a service temperature below minus 320° F. only; location to be just below the ICC mark.

(3) Serial number and identifying symbol; location of number to be just below the service temperature or ICC mark; location of symbol to be just below the number. The symbol and numbers must be those of the purchaser, user, or maker. The symbol must be registered with the Bureau of Explosives; duplications not authorized.

(4) Maximum weight of content (Max. Content 00#) on cylinders having a service temperature below minus 320° F. only; location near symbol.

Examples:

<i>Service temperature</i> minus 320° F.	<i>Service temperature</i> minus 320° F.
ICC-4L200	ICC-4L200
1234	ST-423F
XY	1234
	XY
	MAX. CONTENT 00#

(5) Inspector's official mark, date of test (such as 10-55 for October 1955), near serial number.

(6) Size of markings at least 1/4 inch high if space permits.

**§ 78.57-22 Inspector's report.**

(a) \* \* \*

On the Report Form, following the line, "Specification ICC \_\_\_\_\_" insert the following:

"Service Temperature \_\_\_\_\_ minus \_\_\_\_° F.  
Maximum Weight of Content \_\_\_\_ (pounds)."

In § 78.59-4 paragraph (a) cancel Note 1; amend § 78.59-9(a) (27 F.R. 6741, July 17, 1962) (15 F.R. 8420, Dec. 2, 1950) as follows:

**§ 78.59 Specification 8; steel cylinders with approved porous filling for acetylene.**

**§ 78.59-4 Steel.**

(a) \* \* \*

NOTE 1: [Canceled]

**§ 78.59-9 Heat treatment.**

(a) Body and heads formed by drawing or pressing must be uniformly and properly heat treated prior to tests.

In § 78.60-4 paragraph (a) Table amend Footnote 5 (16 F.R. 9381, Sept. 15, 1951) to read as follows:

**§ 78.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.**

**§ 78.60-4 Authorized steel.**

(a) \* \* \*

° Ferritic grain size 6 or finer, according to ASTM E-112-58T.

**Subpart D—Specifications for Metal Barrels, Drums, Kegs, Cases, Trunks and Boxes**

In § 78.131-7 amend paragraph (a); in § 78.131-11 amend paragraph (b); (20 F.R. 4419, June 23, 1955) to read as follows:

**§ 78.131 Specification 37A; steel drums.**

**§ 78.131-7 Closures.**

(a) Closures of the type specified in the above table adequate to prevent leakage; gaskets required, all closures to be of the full-removable head type. Curl at top of shell for all drums 30 gallons capacity and larger must have a minimum diameter of 7/16 inch, and so made as to form a circular section with the under portion substantially in contact with the vertical shell. The removable head must have a minimum depth of 3/4 inch and the cover bib must be large enough to extend to the horizontal center line of the top curl when the drum is sealed with the gasket in place. Drums of less than 30 gallons capacity may be made with an outside curl diameter of 3/8 inch minimum and a head depth of 3/4 inch minimum; except that for drums less than 16 gallons capacity the outside curl diameter may be 5/32 inch and the cover depth may be 3/8 inch minimum.

**§ 78.131-11 Type test.**

(b) Test by dropping on top chime, or other part considered to be weaker, with drum filled to normal loading depth and to the gross weight at which container is marked with dry powdered material, and topped with at least two inches of a finely

divided, dry, free-flowing powder of the following sieve analysis:

- % retained on 42 mesh=Trace (max.).
- % retained on 50 mesh=3% (max.).
- % retained on 100 mesh=88% (min.).

A material such as sodium bicarbonate is recommended. Container shall be dropped from a height of 4 feet onto solid concrete so as to strike diagonally on the chime and so positioned when equipped with bolted ring type closure that crush pattern will terminate at closure joint. Closing devices and other parts projecting beyond chime or rolling hoops must be capable of withstanding this test. No disc or material other than regular gaskets in closure part is permitted for test purposes.

**Subpart F—Specifications for Fiberboard Boxes, Drums, and Mailing Tubes**

Add entire § 78.211 (15 F.R. 8479, Dec. 2, 1950) to read as follows:

**§ 78.211 Specification 12P; fiberboard boxes. Nonreusable containers for one inside plastic container greater than 1-gallon capacity, as prescribed in Part 73 of this chapter.**

**§ 78.211-1 Material requirements.**

(a) Boxes shall be of corrugated fiberboard, except as otherwise authorized in this specification, having both outer facings water resistant; corrugating medium shall be at least 0.009 inch thick and weigh not less than 26 pounds per 1,000 square feet; all parts shall be securely glued together throughout all contact areas.

(b) Solid fiberboard is authorized when of strength equal to corrugated fiberboard and in conformance with paragraph (c) of this section.

(c) Fiberboard required and tests as follows:

(1) Fiberboard is hereby classified by strength<sup>1</sup> 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 <sup>1</sup>	Solid fiberboard—minimum combined weight of component piles exclusive of adhesives (pounds per 1,000 sq. ft.)	Single-wall—minimum combined weight of facings (pounds per 1,000 sq. ft.)	Double-wall—minimum combined weight of facings including center facings (pounds per 1,000 sq. ft.)
175	149	75	92
200	190	84	110
275	237	138	110
325	283	180	126
350	283	180	180
375	283	180	180
400	283	180	180
450	283	180	180
500	330	180	222

<sup>1</sup> Mullen or Cady Test (minimum).

(2) Tests of acceptable completed 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:

(i) Clamp board firmly in machine and turn wheel at constant speed of approximately 2 revolutions per second.

(ii) Six bursts required, 3 from each side; all results but one must show prescribed strength.

(iii) Board failing may be retested by making 24 bursts, 12 from each side; when all results but 4 show prescribed strength the board is acceptable.

(iv) For corrugated fiberboard, double-pop tests may be disregarded.

**§ 78.211-2 Construction requirements.**

(a) Corrugated or solid fiberboard boxes of any type capable of withstanding tests prescribed by § 78.211-5 author-

ized when constructed in accordance with requirements of this section.

(b) Corrugated or solid fiberboard boxes in accordance with the following table are authorized.

Gross weight not over (pounds)	Strength of fiberboard (minimum Mullen or Cady test)		
	Solid board	Single-wall corrugated	Double-wall corrugated
20	200	200	200
60	350	350	275
80	500	450	350

(c) All 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. Box must provide snug fit for inside plastic container.

(d) Joints (manufacturer's). The joint is defined as that part of the box where the ends of the sheet are joined together by taping, stitching or gluing.

(1) For glued or stitched lap joint, the sides of box forming joint must lap not less than 1 1/4 inches. Glued joints must be firmly glued throughout entire area of contact with a glue or adhesive which cannot be dissolved in water after film application has dried.

(2) Butt-joints, taped, are authorized providing resulting joints are capable of withstanding tests prescribed by § 78.211-5.

§ 78.211-3 Design limitations.

(a) Design limitations are as follows:

(1) Permitted when perforated or die-cut areas remain intact following tests prescribed for box by § 78.211-5.

(i) Outer closing flaps may have perforated areas of no greater size than is necessary to provide access to closure of plastic container; inner flaps may have die-cut areas of similar type.

(ii) Die-cut holes in outer and inner closing flaps when closure for plastic container is attached to a metal plate inserted between the inner and outer flaps or when closure area is protected by means of a plug-in or screw cap or similar device. The diameter of these holes shall be less than the diameter of the metal plate.

(iii) Inside facing of fiberboard closure flaps may be cut or perforated for opening. A tear strip may be incorporated in the body wall of fiberboard boxes provided it is above the neck area of the plastic container and this may be accompanied by a nominal thumb-notch in the manufacturer's joint or in a side panel of the box.

(iv) Handholes, by perforation or other means, in any part of the box providing the face having the handhole is backed up by a fiberboard sheet of equal strength of box in full height and width of that face or that handholes are above the neck area of the plastic container. No more than one handhole in any face nor more than two per box.

(2) Not permitted:

(i) Stitched manufacturer's joint or stitched closures when any such stitch (staple) is in direct contact with the inside plastic container.

§ 78.211-4 Closure.

(a) Closure of any type is authorized provided representative boxes are capable of withstanding tests prescribed by § 78.211-5.

§ 78.211-5 Tests.

(a) Representative samples of the completed composite container assembled, filled and closed as for use must be capable of withstanding tests prescribed in the specification for the inside plastic container without rupture of the fiberboard boxes that produces a condition of the box that could result in potential damage to the inside container.

§ 78.211-6 Marking.

(a) On each container. Symbol in rectangle as follows:

ICC-12P\*\*

(1) Stars to be replaced by authorized gross weight for which box was constructed (for example, ICC-12P80). The letters NRC, located just above or below the ICC mark, to indicate a non-reuseable container. These marks shall be understood to certify that the outer container complies with all the construction requirements of the specification.

(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: Specification as prescribed in paragraph (a) (1) of this section must be at least 1/2 inch high; other markings must be legible.

In § 78.214-8 amend paragraph (a); in § 78.214-15 amend paragraph (b) (21 F.R. 9364, Nov. 30, 1956) (19 F.R. 6274, Sept. 29, 1954) to read as follows:

§ 78.214 Specification 23F; fiberboard boxes.

§ 78.214-8 Type authorized.

(a) Of solid fiberboard; 1-piece, or 3-piece without recessed heads, fitted with lining tube or lining tubes as prescribed in § 78.214-15, except that lining tubes are not required for boxes used for shipments of high explosives packed in accordance with § 73.63(a)(3) of this chapter or electric blasting caps packed in accordance with § 73.66(g)(1) of this chapter, or when box is constructed of 1-piece of not less than 600-pound test board weighing not less than 300 pounds per 1,000 square feet. Boxes having handholes are authorized when approved by the Bureau of Explosives.

§ 78.214-15 Authorized gross weight (when packed) and parts required.

(b) Authorized gross weight; 65 pounds when 2 or more lining tubes are used to divide the box into 2 or more compartments; 65 pounds when 1 or more lining tubes are used and contents will consist of 1 cartridge only or of black powder in bags; 65 pounds when boxes

without lining tubes are used for shipments of high explosives packed in accordance with § 73.63(a)(3) of this chapter or electric blasting caps packed in accordance with § 73.66(g)(1) of this chapter; 35 pounds in all other cases except that boxes having a single solid fiberboard lining tube, the fiberboard weighing at least 283 pounds per 1,000 square feet, or corrugated fiberboard lining tube as prescribed in § 78.214-4(a), are authorized for 65 pounds gross weight.

In § 78.224-2 amend paragraph (d) (27 F.R. 3432, Apr. 11, 1962) to read as follows:

§ 78.224 Specification 21C; fiber drums.

§ 78.224-2 Type tests.

(d) Drums for inside plastic containers for liquids shall be constructed and tested as prescribed in § 78.224-1(a)(2) and paragraphs (a), (b), (c), and (e) of this section. When combined with inside plastic container authorized in Part 73 of this chapter, the composite container must be tested in accordance with requirements detailed in specifications for the inside plastic container and shall develop no condition that would be of such nature as to contribute to potential failure of inner container.

Subpart I—Specifications for Tank Cars

Add entire § 78.268 (21 F.R. 4574, June 26, 1956) to read as follows:

§ 78.268 Specification ICC-111A60-W-1 fusion-welded steel tanks, or ICC-111A60-F-1, forge-welded steel tanks fabricated by conversion from existing ICC-105A300, 400 or 500 series tanks, to be mounted on or forming part of 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, paragraphs (a), (b), (c) and (d).

§ 78.268-1 Type.

(a) Tanks built under this specification must be cylindrical with heads designed convex outward. When the interior of the tank is divided into compartments, each compartment must have two heads designed convex outward. The tank shell, or each compartment, must be provided with manway and such other external projections as are prescribed herein.

§ 78.268-2 Bursting pressure.

(a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be not less than 240 pounds per square inch.

§ 78.268-3 Thickness of plates.

(a) The wall thickness in the cylindrical portion of the tank must be calculated by the following formula, but in no case

shall the wall thickness be less than  $\frac{1}{16}$  inch:

$$t = \frac{Pd}{2SE}$$

where

$t$  = thickness in inches of the thinnest plate;

$P$  = calculated bursting pressure in pounds per square inch;

$d$  = inside diameter in inches;

$S$  = minimum ultimate tensile strength in pounds per square inch;

$E$  = efficiency of longitudinal welded joint = 90 percent.

(b) The thickness of an ellipsoidal head in which the ellipsoid of revolution has the major axis equal to the inside diameter of the shell and the minor axis is one-half the major axis, shall be determined by the following formula:

$$t = \frac{Pd}{2SE}$$

where

$t$  = thickness of plate in inches;

$P$  = calculated bursting pressure pounds per square inch;

$d$  = inside diameter in inches;

$S$  = minimum ultimate tensile strength in pounds per square inch;

$E$  = efficiency of welded joint, if any = 90 percent; if head is made in one piece,  $E$  = 100 percent.

The thickness of a dished head shall be a minimum of  $\frac{1}{2}$  inch.

(c) The minimum thickness of clad plates, where cladding material has physical properties at least equal to that of the base plate may be considered as part of the base plate for determining total thickness of plate required. Where the cladding material does not have physical properties at least equal to the base plate, the cladding thickness must be added to that required for the base plate.

(d) When the interior of the tank is divided into compartments by constructing each compartment as a separate tank, these tanks shall be joined together by a cylinder made of plate, having a thickness not less than that required for the tank shell and applied to the outside surface of tank head flanges. The cylinder shall fit the straight flange portion of the compartment tank head tightly. The cylinder shall contact the head flange for a distance of at least two times the plate thickness, or a minimum of 1 inch, whichever is greater. The cylinder shall be joined to the head flange by a full fillet weld. Distance from head seam to cylinder shall not be less than  $1\frac{1}{2}$  inches or three times the plate thickness, whichever is greater. Voids created by the space between heads of tanks joined together to form a compartment tank must be provided with a tapped drain hole at their lowest point and a tapped hole at top of tank. The top hole must be closed and the bottom hole may be closed with solid pipe plugs not less than  $\frac{3}{4}$  inch nor more than  $1\frac{1}{2}$  inches having standard pipe threads.

#### § 78.268-4 Openings in the tank.

(a) Openings for manway nozzle or other fittings must be reinforced in an approved manner.

#### § 78.268-5 Material.

(a) All plates for tank must be made of open-hearth boiler-plate flange or firebox quality steel to an approved spec-

ification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

(b) All castings used for fittings or attachments to tank must be made of material to an approved specification. Use of cast iron is prohibited.

(c) All external projections must be made of materials specified herein.

#### § 78.268-6 Tank heads.

(a) The tank head shape shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be one-half the major axis.

#### § 78.268-7 Welding.

(a) All joints must be fusion welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion welding to be performed by fabricators certified by the Association of American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion welding in accordance with the requirements of A.A.R. Welding Code, Appendix W.

#### § 78.268-8 Stress-relieving.

(a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A.A.R. Appendix W.)

#### § 78.268-9 Tank mounting.

(a) The manner in which the tank is mounted on and securely attached to the car structure must be approved.

(b) The use of rivets as a means of securing anchor to the tank is prohibited.

#### § 78.268-10 Tests of tanks.

(a) Each tank must be tested by completely filling tank and nozzles with water, or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during the test, and applying a pressure of 60 pounds per square inch. The tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) If tanks are lagged, the test of tank must be made before lagging is applied.

(c) Calking of welded joints to stop leaks developed during the foregoing tests is prohibited. Repairs in welded joints must be made as prescribed in § 78.268-7(a).

#### § 78.268-11 Marking.

(a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification, as follows:

(1) ICC-111A60-W-1 in letters and figures at least  $\frac{3}{8}$  inch high, stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If the tanks are fabricated from ASTM A-212 Grades A or B steel, the specification number of this material must also be stamped in letters and figures at least  $\frac{3}{8}$  inch high into the metal near the

center of both outside heads of the tank by the tank builder. ICC-111A60-W-1 must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car. Tanks converted from forge-welded tanks (see § 78.268(a)) must be stenciled ICC-111A60-F-1 in letters and figures as prescribed above.

(2) Initials of tank builder and date of original test of tank, in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of additional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of tank, in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph by the party assembling the completed car.

(4) Date on which the tank was last tested and pressure to which tested stenciled on the tank, or jacket if lagged.

(5) Date on which the safety valves were last tested and pressure to which tested, stenciled on the tank, or jacket if lagged.

(6) Date on which interior heater system was last tested and pressure to which tested, stenciled on the tank, or jacket if lagged.

(7) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity only, the name of that commodity followed by the word "Only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the tank, or jacket if lagged, in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(8) Tanks made of clad plates must be stenciled on the tank, or jacket if lagged, "(naming material) ----- clad tank." Lined tanks must be stenciled on the tank, or jacket if lagged, "(naming material) ----- lined tank." These marks must be in letters at least 2 inches high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

#### § 78.268-12 Reports.

(a) Before a tank car is placed in service, the party assembling the completed car must furnish to the car owner, Bureau of Explosives and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of repairs requiring welding to existing tanks or equipment, there must be furnished to the same parties a report in detail of the welded repairs to each tank covered by a particular application, showing the initials and number of each tank involved, except when welded repairs covering previously approved methods and materials are made, a de-

tailed report must be submitted to the Secretary, Mechanical Division, Association of American Railroads, on an approved form upon completion of the repairs. In case of alterations or additions to existing equipment which change the data on existing certificate of construction, except for the car where previously approved fittings are applied, applications for approval shall be submitted and approval shall be obtained. Reports of the latest retests must be rendered to and retained by the car owner until the next retest has been accomplished and recorded.

#### § 78.268-13 Outage.

(a) Tanks built to this specification will require a minimum outage of 2 percent. This outage must be provided for in the tank shell.

#### § 78.268-14 Lagging.

(a) Not a specification requirement. If applied the tank shell must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than  $\frac{1}{8}$  inch in thickness and efficiently flashed around all openings so as to be weather tight.

(b) Before lagging is applied, the exterior tank surface and the interior surface of the metal jacket shall be given a protective coating.

#### § 78.268-15 Closure for manway.

(a) The manway cover must be of an approved type and designed to make it impossible to remove the cover while the interior of the tank is subjected to pressure.

(b) Manway cover must be made of cast, forged or fabricated steel and be of good weldable quality in conjunction with the metal of the tank.

(c) All covers not hinged must be attached to outside of tank by at least a  $\frac{3}{8}$  inch chain or its equivalent.

(d) All joints between manway covers and their seats must be made tight against leakage of vapor or liquid by use of gaskets of suitable material.

#### § 78.268-16 Bottom outlets.

(a) The bottom outlet, when installed, must be made of metal not subject to rapid deterioration by the lading, be of approved design, and be provided with a liquid tight closure at the lower end.

(b) The valve and its operating mechanism may be applied to the interior or the outside bottom of the tank. The design must insure a positive closure during transit.

(c) The bottom outlet nozzle of interior valves and valve body of exterior valves may be of cast, fabricated or forged metal. If welded to the tank they must be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or valve body of exterior valves, 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.

(e) For outlet nozzles that extend 6 inches or more from the shell of the tank, a "V" groove must be cut (not cast) in the upper part of the outlet nozzle at a point immediately below the lowest part of the valve to a depth that will leave the thickness of nozzle wall at root of the "V" not over  $\frac{3}{8}$  inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent must be below the steam chamber. Where the outlet nozzle is not a single piece, or when exterior valves are applied, arrangement must be made to provide the equivalent of a breakage groove.

(f) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of the lading, or other causes, and which will insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(g) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome or tank shell, leakage must be prevented by packing in a stuffing box or other suitable seals and a cap.

(i) In no case must the extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least a  $\frac{3}{8}$  inch chain or its equivalent, except that outlet closure plugs may be attached by  $\frac{1}{4}$  inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection of the valve must be closed by a plug or cap.

#### § 78.268-17 Loading and unloading devices.

(a) Not specification requirements. When installed, these devices must be of an approved design which will prevent interchange with any other fixture on the tank, made of material not subject to rapid deterioration by the lading, and be tightly closed. Unloading pipes must be securely anchored within the tank.

(b) When the characteristics of the commodity for which the car is authorized are such that these devices must be equipped with valves or fittings to permit the loading and unloading of the contents of the car, these devices, including valves, must be of an approved design, made of a material not subject to rapid deterioration by the lading, and be provided with a protective housing. Provision must be made for closing pipe connections of valves.

(c) The venting device shall be an opening to permit application of pressure to tank. The loading and unloading de-

vice shall be a pipe extending down to the bottom of the tank, so that, by application of pressure, the contents of the tank can be completely removed.

#### § 78.268-18 Gauging device.

(a) Outage for these tanks must be provided within the tank shell; therefore, an outage scale visible from manway when cover is open must be provided.

(b) When loading and unloading devices (see § 78.268-17(a)) are applied to permit tank to be loaded with manway cover closed, a telltale pipe must be applied with a  $\frac{1}{4}$  inch control valve mounted outside of the tank and enclosed within a cap or housing. The telltale pipe shall measure a liquid level that will indicate an outage not less than that specified in § 78.268-13(a).

#### § 78.268-19 Vacuum breaker.

(a) To prevent pressure reduction of more than  $1\frac{1}{2}$  pounds per square inch below atmospheric pressure, when unloading a tank with a closed manway cover, or from drop in temperature with subsequent shrinkage of lading, each tank may be equipped with a valve of approved design.

#### § 78.268-20 Safety relief valves.

(a) The tank or each compartment thereof, must be equipped with one or more safety relief valves of approved design, mounted on suitable nozzles securely attached to the top of the tank. Total valve discharge capacity must be sufficient to prevent building up of pressure in tank in excess of 45 pounds per square inch.

(b) Each safety relief valve must be set for a start-to-discharge pressure of 35 pounds per square inch and be vapor tight at 28 pounds per square inch. (For tolerance see § 78.268-21(a).)

(c) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, Class B, need not be equipped with safety relief valves, but if not so equipped, must have one safety vent at least  $1\frac{3}{4}$  inches inside diameter, of an approved design which will prevent interchange with fixtures prescribed in § 78.268-17(a), made of material not subject to rapid deterioration by the lading, and closed with a frangible disc of lead or other approved 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. All tanks equipped with vents must be stenciled "NOT FOR FLAMMABLE LIQUIDS."

(d) Safety relief valve or safety vent flanges, if welded to tank, must be cast, forged, or fabricated metal and be of good weldable quality in conjunction with the metal of the tank.

(e) Each tank or compartment thereof may be equipped with one separate air connection of approved design, which will prevent interchange with any fixture prescribed in § 78.268-17(a), made of material not subject to rapid deterioration by the lading, tightly closed,

## RULES AND REGULATIONS

and chained to prevent misplacement. Valves, if applied must be of approved design, made of a material not subject to rapid deterioration by the lading, and be provided with a protective housing. Provision must be made for closing pipe connections of valves.

#### § 78.268-21 Tests of safety relief valves.

(a) Each valve must be tested by air or gas before being put into service. The valve must start-to-discharge at a pressure of 35 pounds per square inch, and be vapor tight at 28 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valves must start-to-discharge at the pressure prescribed in § 78.268-20(b) with a tolerance of plus or minus 3 pounds.

#### § 78.268-22 Interior heater systems.

(a) Not a specification requirement. When installed, see § 78.260 and § 78.261 *Heater systems*.

(b) Flanges for interior heater systems and plugs must be of cast, fabricated or forged metal. Flanges must be of good weldable quality in conjunction with the metal of the tank.

(c) Interior heater systems when installed must be so constructed that the breaking off of their external connections will not cause leakage of contents of tank.

(d) Interior heater systems must be tested with hydrostatic pressure and must be tight at 200 pounds per square inch.

Add entire § 78.271 (21 F.R. 4578, June 26, 1956) to read as follows:

#### § 78.271 Specification ICC-112A200-W; fusion-welded steel tanks to be mounted on or forming part of 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*, paragraphs (a), (b), (c) and (d).

#### § 78.271-1 Type.

(a) Tanks built under this specification must be cylindrical with heads designed convex outward. The tank must be provided with manway nozzle and cover on top of the tank of sufficient diameter to permit access to the interior of the tank and to provide for the proper mounting of venting, loading, unloading, sampling and safety relief valves, gauging device, thermometer well, and a protective housing on the cover. Other openings in the tank are prohibited, except as provided in Part 73 of this chapter.

#### § 78.271-2 Lagging.

(a) Not a specification requirement.

(b) In lieu of lagging, at least the upper  $\frac{2}{3}$  of the tank car tank shall be painted with a light-reflective paint for the finish coat. Manway nozzle and all appurtenances in contact with this area of the tank shall also be painted with a light-reflective paint for the finish coat.

#### § 78.271-3 Bursting pressure.

(a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be at least 500 pounds per square inch.

#### § 78.271-4 Thickness of plates.

(a) The wall thickness in the cylindrical portion of the tank and tank heads must be calculated by the following formula, but in no case shall the wall thickness be less than that specified in paragraph (b) of this section:

$$t = \frac{Pd}{2SE}$$

where

$t$  = thickness in inches of thinnest plate;  
 $P$  = calculated bursting pressure in pounds per square inch;  
 $d$  = inside diameter in inches;  
 $S$  = minimum ultimate tensile strength in pounds per square inch;  
 $E$  = efficiency of longitudinal welded joint = 90 percent.

(b) The minimum thickness of plates must be  $\frac{1}{16}$  inch, except when steel of 65,000 psi. minimum tensile strength is used, the minimum thickness of plates may be  $\frac{1}{2}$  inch.

(c) The minimum thickness of clad plates, where cladding material has physical properties at least equal to that of the base plate prescribed in § 78.271-6 (a), must be as prescribed in § 78.271-4 (b). Where the cladding material does not have physical properties at least equal to that of the base plate prescribed in § 78.271-6(a) minimum thickness of base plate must be as prescribed in § 78.271-4 (b).

#### § 78.271-5 Manway nozzle opening.

(a) Opening in tank for manway nozzle must be reinforced in an approved manner.

#### § 78.271-6 Material.

(a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

(b) All castings used for fittings or attachments to tank must be made of material to an approved specification. The use of cast iron is prohibited.

(c) All external projections must be made of materials specified herein.

#### § 78.271-7 Tank heads.

(a) The tank head shape shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be not less than  $\frac{1}{2}$  of the major axis.

#### § 78.271-8 Welding.

(a) All joints must be fusion welded by a process which investigation and laboratory tests by the Mechanical Division, Association of American Railroads have proved will produce satisfactory results. Fusion welding to be performed by fabricators certified by the Association of American Railroads as

qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion welding in accordance with the requirements of A.A.R. Welding Code, Appendix W.

#### § 78.271-9 Stress-relieving.

(a) All welding of the tank shell and of attachments welded directly thereto, must be stress-relieved as a unit. (See A.A.R. Appendix W.)

#### § 78.271-10 Tank mounting.

(a) The manner in which the tank is mounted on and securely supported on the car structure must be approved.

(b) The use of rivets as a means of securing the anchor to tank is prohibited.

#### § 78.271-11 Manway nozzle, cover and protective housing.

(a) Manway nozzle must be of forged or rolled steel at least 18 inches inside diameter. Manway nozzle must be of approved design and attached to tank by fusion welding. Fusion welding for securing this attachment in place must be of the double-welded butt joint type or double full-fillet lap joint type.

(b) Manway cover must be of forged or rolled steel at least  $2\frac{1}{4}$  inches thick, machined to approved dimensions. Manway cover must be attached to manway nozzle by through or stud bolts not entering tank.

(c) The shearing value of the bolts attaching protective housing to manway cover must not exceed 70 percent of shearing value of bolts attaching manway cover to manway nozzle.

(d) All joints between manway cover and manway nozzle, and between manway cover and valves or other appurtenances mounted thereon, must be made tight against vapor pressure.

(e) Protective housing of cast or fabricated steel must be bolted to manway cover. Housing must be equipped with a suitable metal cover that can be securely closed. Housing cover on tanks used for the transportation of liquefied flammable gases must be provided with an opening equipped with an approved weather proof covering and having an area at least equal to the total safety valve discharge area. Housing cover must have suitable stop to prevent cover striking loading or unloading connections and be hinged on one side only with approved riveted pin or rod with nuts and cotters. Opening in wall of housing must be equipped with screw plugs or other closures.

#### § 78.271-12 Venting, loading and unloading valves, gauging and sampling device and thermometer well.

(a) Venting, loading and unloading valves must be of approved design, made of metal not subject to rapid deterioration by the lading, and must withstand a pressure of 200 pounds per square inch without leakage. The valves must be directly bolted to seatings on manway cover. Pipe connections of the valves must be closed with approved screw plugs chained or otherwise fastened to prevent misplacement.

(b) The interior pipes of the loading and unloading valves, except as prescribed in paragraph (d) of this section, may be equipped with excess flow valves of approved design.

(c) Gauging device, sampling valve and thermometer well are not specification requirements. When used, they must be of approved design, made of material not subject to rapid deterioration by the lading, and must withstand a pressure of 200 pounds per square inch without leakage. Interior pipes of the gauging device and sampling valve, except as prescribed in paragraph (d) of this section, may be equipped with excess flow valves of approved design. Interior pipes of thermometer well must be anchored in an approved manner to prevent breakage due to vibration. The thermometer well must be closed by an approved valve attached close to the manway cover and closed by a screw plug. Other approved arrangements that permit testing thermometer well for leaks without complete removal of the closure may be used.

(d) Tanks used in the transportation of liquefied flammable gases must have the interior pipes of the loading and unloading valves, gauging device and sampling valve equipped with excess flow valves of an approved design.

(e) An excess flow valve, as referred to in this specification, is a device which closes automatically against the outward flow of the contents of the tank such as may be encountered in case the external closure is broken off or removed during transit. Excess flow valves may be designed with a by-pass to allow equalization of pressures.

#### § 78.271-13 Safety valves.

(a) The tank must be equipped with one or more safety valves of an approved design, made of metal not subject to rapid deterioration by the lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up of pressure in tank in excess of 165 pounds per square inch.

(b) The safety valves must be set for a start-to-discharge pressure of 150 pounds per square inch. (For tolerance see § 78.271-17(a).)

#### § 78.271-14 Fixtures, reinforcements, and attachments not otherwise specified.

(a) Attachments, other than the anchorage, interior pipe bracing, and those mounted on manway cover, are prohibited.

#### § 78.271-15 Closures for openings.

(a) Plugs must be of approved type, with standard pipe thread and of metal not subject to rapid deterioration by lading.

#### § 78.271-16 Tests of tanks.

(a) Each tank must be tested, after anchorage is applied, by completely filling tank and manway nozzle with water, or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during test, and applying a pressure of 200 pounds per square inch. The tank must hold

the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) Calking of welded joints to stop leaks developed during the foregoing tests prohibited. Repairs in welded joints must be made as prescribed in § 78.271-8(a).

#### § 78.271-17 Tests of safety relief valves.

(a) Each valve must be tested by air or gas before being put into service. The valve must start-to-discharge at a pressure of 150 pounds per square inch and be vapor tight at 120 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valves must start-to-discharge at the pressure prescribed in § 78.271-13(b), with a tolerance of plus or minus 3 percent.

#### § 78.271-18 Marking.

(a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification. These marks must be as follows:

(1) ICC-112A200-W in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A-212 Grade A or B steel, the specification number of the material must also be stamped in letters and figures at least  $\frac{3}{8}$  inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC-112A200-W must also be stenciled on the tank in letters and figures at least 2 inches high by the party assembling the completed car.

(2) Initials of tank builder and date of original test of tank in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of additional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of the tank, in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph by the party assembling the completed car.

(4) Date on which the tank was last tested and pressure to which tested, stenciled on the tank.

(5) Date on which the safety valves were last tested and pressure to which tested, stenciled on the tank.

(6) Water capacity in pounds stamped plainly and permanently in letters and figures at least  $\frac{3}{8}$  inch high into the metal of the tank immediately below the mark specified in subparagraphs (2) and (3) of this paragraph. This mark must also be stenciled on the tank immediately below the dome platform and either directly behind or within 3 feet of the right or left side of ladder or ladders, if there is a ladder on each side of the tank, in letters and figures at least 2 inches high as follows:

WATER CAPACITY 000000 POUNDS

(7) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity only, the name of that commodity followed by the word "Only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the tank in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(8) Tanks made of clad plates must be stenciled on the tank, "(naming material) ---- clad tank." Lined tanks must be stenciled on the tank, "(naming material) ---- lined tank." These marks must be stenciled in letters at least 2 inches high, immediately above stenciled mark specified in subparagraph (7) of this paragraph.

#### § 78.271-19 Reports.

(a) Before a tank car is placed in service, the party assembling the completed car must furnish to the car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of repairs requiring welding to existing tanks or equipment, there must be furnished to the same parties a report in detail of the welded repairs to each tank covered by a particular application, showing initials and number of each tank involved; except when welded repairs covering previously approved methods and materials are made, a detailed report must be submitted to the Secretary, Mechanical Division, Association of American Railroads, on an approved form upon completion of the repairs. In case of alterations of or additions to existing equipment which change the data on the existing certificate of construction, except for the car where previously approved fittings are applied, application for approval must be submitted and approval must be obtained. Reports of the latest retests must be rendered to and retained by the car owner until the next retest has been accomplished and recorded.

Add entire § 78.272 (21 F.R. 4578, June 26, 1956) to read as follows:

#### § 78.272 Specification ICC-112A340-W; fusion-welded steel tanks to be mounted on or forming part of 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*, paragraphs (a), (b), (c) and (d).

#### § 78.272-1 Type.

(a) Tanks built under this specification must be cylindrical with heads designed convex outward. The tank must be provided with manway nozzle and cover on top of the tank of sufficient diameter to permit access to the interior of the tank and to provide for the proper mounting of venting, loading, unloading, sampling and safety valves, gauging de-

vices, thermometer well, and a protective housing on the cover. Other openings in the tank are prohibited, except as provided in Part 73 of this chapter.

#### § 78.272-2 Lagging.

(a) Not a specification requirement.

(b) In lieu of lagging, at least the upper  $\frac{2}{3}$  of the tank car tank shall be painted with a light-reflective paint for the finish coat. Manway nozzle and all appurtenances in contact with this area of the tank shall also be painted with a light-reflective paint for the finish coat.

#### § 78.272-3 Bursting pressure.

(a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be at least 850 pounds per square inch.

#### § 78.272-4 Thickness of plates.

(a) The wall thickness in the cylindrical portion of the tank and tank heads must be calculated by the following formula, but in no case shall the wall thickness be less than that specified in paragraph (b) of this section:

$$t = \frac{Pd}{2SE}$$

where

$t$  = thickness in inches of thinnest plate;  
 $P$  = calculated bursting pressure in pounds per square inch;

$d$  = inside diameter in inches;

$S$  = minimum ultimate tensile strength in pounds per square inch;

$E$  = efficiency of longitudinal welded joint = 90 percent.

(b) The minimum thickness of plates must be  $\frac{1}{16}$  inch, except when steel of 65,000 psi. minimum tensile strength is used, the minimum thickness of plates may be  $\frac{3}{8}$  inch.

(c) The minimum thickness of clad plates, where cladding material has physical properties at least equal to that of the base plate prescribed in § 78.272-6(a), must be as prescribed in paragraph (b) of this section. Where the cladding material does not have physical properties at least equal to that of the base plate prescribed in § 78.272-6(a) minimum thickness of base plate must be as prescribed in paragraph (b) of this section.

#### § 78.272-5 Manway nozzle opening.

(a) Opening in tank for manway nozzle must be reinforced in an approved manner.

#### § 78.272-6 Material.

(a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

(b) All castings used for fittings or attachments to tank must be made of material to an approved specification. The use of cast iron is prohibited.

(c) All external projections must be made of materials specified herein.

#### § 78.272-7 Tank heads.

(a) The tank head shape shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be not less than  $\frac{1}{2}$  the major axis.

#### § 78.272-8 Welding.

(a) All joints must be fusion welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved 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. All joints must be fabricated by means of fusion welding in accordance with the requirements of A.A.R. Welding Code, Appendix W.

#### § 78.272-9 Stress-relieving.

(a) All welding of the tank shell and of attachments welded directly thereto, must be stress-relieved as a unit. (See A.A.R. Appendix W.)

#### § 78.272-10 Tank mounting.

(a) The manner in which the tank is supported on and securely attached to the car structure must be approved.

(b) The use of rivets as a means of securing the anchor to tank is prohibited.

#### § 78.272-11 Manway nozzle, cover and protective housing.

(a) Manway nozzle must be of forged or rolled steel at least 18 inches inside diameter. Manway nozzle must be of approved design and attached to tank by fusion welding. Fusion welding for securing this attachment in place must be of the double-welded butt joint type or double full-fillet lap joint type.

(b) Manway cover must be of forged or rolled steel at least  $2\frac{1}{4}$  inches thick, machined to approved dimensions. Manway cover must be attached to manway nozzle by through or stud bolts not entering tank.

(c) The shearing value of the bolts attaching protective housing to manway cover must not exceed 70 percent of shearing value of bolts attaching manway cover to manway nozzle.

(d) All joints between manway cover and manway nozzle, and between manway cover and valves or other appurtenances mounted thereon, must be made tight against vapor pressure.

(e) Protective housing of cast or fabricated steel must be bolted to manway cover. Housing must be equipped with a suitable metal cover that can be securely closed. Housing cover on tanks used for the transportation of liquefied flammable gases must be provided with an opening equipped with an approved weather proof covering and having an area at least equal to the total safety valve discharge area. Housing cover must have suitable stop to prevent cover striking loading and unloading connections and be hinged on one side only with approved riveted pin or rod with nuts and cotters. Opening in wall of housing must be equipped with screw plugs or other closures.

#### § 78.272-12 Venting, loading and unloading valves, gauging and sampling device and thermometer well.

(a) Venting, loading and unloading valves must be of approved type, made of metal not subject to rapid deterioration by lading, and must withstand a pressure of 340 pounds per square inch without leakage. The valves must be directly bolted to seatings on manway cover. Pipe connections of the valves must be closed with approved screw plugs chained or otherwise fastened to prevent misplacement.

(b) The interior pipes of the loading and unloading valves, except as prescribed in paragraph (d) of this section, may be equipped with excess flow valves of approved design.

(c) Gauging device, sampling valve and thermometer well are not specification requirements. When used, they must be of approved design, made of metal not subject to rapid deterioration by the lading, and must withstand a pressure of 340 pounds per square inch without leakage. Interior pipes of the gauging device and sampling valve, except as prescribed in paragraph (d) of this section, may be equipped with excess flow valves of approved design. Interior pipes of thermometer well must be anchored in an approved manner to prevent breakage due to vibration. The thermometer well must be closed by an approved valve attached close to the manway cover and closed by a screw plug. Other approved arrangements that permit testing thermometer well for leaks without complete removal of the closure may be used.

(d) Tanks used in the transportation of liquefied flammable gases must have the interior pipes of the loading and unloading valves, gauging device and sampling valve equipped with excess flow valves of approved design.

(e) An excess flow valve, as referred to in this specification, is a device which closes automatically against the outward flow of the contents of the tank such as may be encountered in case the external closure valve is broken off or removed during transit. Excess flow valves may be designed with a by-pass to allow equalization of pressures.

#### § 78.272-13 Safety relief valves.

(a) The tank must be equipped with one or more safety relief valves of approved design, made of metal not subject to rapid deterioration by the lading and be mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up of pressure in tank in excess of 280.5 pounds per square inch, except as provided in paragraph (c) of this section.

(b) The safety relief valve must be set for a start-to-discharge pressure of 255 pounds per square inch, except as provided in paragraph (c) of this section. (For tolerance see § 78.272-17(a).)

(c) As an alternate, safety relief valve may be set for a start-to-discharge pressure of 280.5 pounds per square inch and the total valve discharge capacity must be sufficient to prevent building up pres-

sure in tank in excess of 306 pounds per square inch.

(d) Safety relief valves must not start to leak at less than 90 percent of the start-to-discharge pressure and must be vapor tight at 80 percent of the start-to-discharge pressure.

**§ 78.272-14 Fixtures, reinforcements, and attachments not otherwise specified.**

(a) Attachments, other than the anchorage, interior pipe bracing, and those mounted on manway cover, are prohibited.

**§ 78.272-15 Closures for openings.**

(a) Plugs must be of approved type, with standard pipe thread and of metal not subject to rapid deterioration by the lading.

**§ 78.272-16 Tests of tanks.**

(a) Each tank must be tested, after anchorage is applied, by completely filling tank and manway nozzle with water, or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during test, and applying a pressure of 340 pounds per square inch. The tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) Calking of welded joints to stop leaks developed during the foregoing tests prohibited. Repairs in welded joints must be made as prescribed in § 78.272-8(a).

**§ 78.272-17 Tests of safety relief valves.**

(a) Each valve must be tested by air or gas before being put into service. The valve must start-to-discharge at a pressure of 255 pounds per square inch and be vapor tight at 204 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valves must start to discharge at the pressures prescribed in § 78.272-13 (b) or (c) with a tolerance of plus or minus 3 percent.

**§ 78.272-18 Marking.**

(a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification. These marks must be as follows:

(1) ICC-112A340-W in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A-212 Grade A or B steel, the specification number of the material must also be stamped in letters and figures at least  $\frac{3}{8}$  inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC-112A340-W must also be stenciled on the tank in letters and figures at least 2 inches high by the party assembling the completed car.

(2) Initials of tank builder and date of original test of tank in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal immediately below the stamped marks

specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of additional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of the tank, in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph by the party assembling the completed car.

(4) Date on which the tank was last tested and pressure to which tested, stenciled on the tank.

(5) Date on which the safety relief valve was last tested and pressure to which tested, stenciled on the tank.

(6) Water capacity in pounds stamped plainly and permanently in letters and figures at least  $\frac{3}{8}$  inch high into the metal of the tank immediately below the mark specified in subparagraph (2) and (3) of this paragraph. This mark must also be stenciled on the tank immediately below the dome platform and either directly behind or within 3 feet of the right or left side of ladder or ladders, if there is a ladder on each side of the tank, in letters and figures at least 2 inches high as follows:

**WATER CAPACITY 000000 POUNDS**

(7) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity only, the name of that commodity followed by the word "Only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the tank in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(8) Tanks made of clad plates must be stenciled on the tank, "(naming material) ----- clad tanks." Lined tanks must be stenciled on the tank, "(naming material) ----- lined tank." These marks must be stenciled in letters at least 2 inches high, immediately above stenciled mark specified in subparagraph (7) of this paragraph.

**§ 78.272-19 Reports.**

(a) Before a tank car is placed in service, the party assembling the completed car must furnish to the car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of repairs requiring welding to existing tanks or equipment, there must be furnished to the same parties a report in detail of the welded repairs to each tank covered by a particular application, showing initials and number of each tank involved; except when welded repairs covering previously approved methods and materials are made, a detailed report must be furnished to the Secretary, Mechanical Division, Association of American Railroads on an

approved form upon completion of the repairs. In case of alteration of or additions to existing equipment which change the data on the existing certificate of construction, except for the cars where previously approved fittings are applied, applications for approval must be submitted and approval must be obtained. Reports of the latest retests must be rendered to and retained by the car owner until the next retest has been accomplished and recorded.

Add entire § 78.279 (21 F.R. 4585, June 26, 1956) to read as follows:

**§ 78.279 Specification ICC-113A60-W-2; fusion-welded metal tank to be mounted on or forming part of 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*, paragraphs (a), (b), (c) and (d).

**§ 78.279-1 Type.**

(a) A tank built in accordance with this specification shall consist of an inner container, inner container suspension system, outer shell, anchorage for mounting on a railway car underframe, piping systems for vapor venting, filling and transfer of the lading, and safety devices, controls, gauges and valves prescribing herein for safe operation of the unit in storage, transport, filling and transfer of the lading.

(b) Multiple compartments: When the interior of the tank is divided into compartments, each compartment must have two heads designed convex outward and comply with all other requirements described in this specification.

**§ 78.279-2 Inner container: Requirements for design, materials and construction.**

(a) The inner container shall be a fusion welded cylindrical shell closed at each end with formed heads convex outward and suitable for operation at temperatures as low as minus 423 degrees Fahrenheit.

(b) Materials: The plate material used in the shell and heads shall be suitable for use at minus 423 degrees Fahrenheit and resistant to corrosion caused by the lading or approved cleaning solvents. Chromium-nickel steel to ASTM Specification A-240-58T, Type 304, shall be used and shall be in the annealed condition prior to fabricating, forming or fusion-welding. Appurtenances shall be of approved materials having satisfactory properties at minus 423 degrees Fahrenheit.

(c) Bursting pressure: The calculated bursting pressure based on the minimum ultimate tensile strength of the material used for the inner container and the efficiency of the welded joint shall not be less than 240 psig.

(d) Thickness of plates: The wall thickness in the cylindrical portion of the inner container and heads must be calculated by the following formula but

in no case shall the wall thickness be less than  $\frac{3}{16}$  inch:

$$t = \frac{Pd}{2SE}$$

where

- $t$  = thickness in inches of the thinnest plate;  
 $P$  = calculated bursting pressure in pounds per square inch;  
 $d$  = inside diameter of the cylindrical portion of the container in inches;  
 $S$  = minimum ultimate tensile strength of the plate material in pounds per square inch, as given in ASTM Specification A-240-58T, Type 304;  
 $E$  = efficiency of longitudinal welded joint = 85 percent.

(e) Heads: The formed heads on the inner container shall be an ellipsoid of revolution in which the major axis shall equal the inside diameter of the shell and the minor axis shall be one-half of the major axis. Formed heads of other approved contours may be used, but in no case shall the wall thickness be less than  $\frac{3}{16}$  inch.

(f) Access to inner container: The inner container shall be provided with a welded access to the inner container through the outer shell. The welded access closure shall have a minimum diameter of 16 inches and shall be so designed as to allow opening by grinding, chipping, etc., a minimum of welds and re-closing by rewelding without need for new parts. Cutting torch may not be used. The opening in the container to provide for the welded access closure shall be reinforced in an approved manner. The closure material shall be the same as the inner container. The reinforced openings in inner container and outer shell must be aligned so a man can gain entrance to the inner container after breaking vacuum, removing closure welds and closure of outer shell and inner container. A passageway connecting the inner container with the outer shell is not a specification requirement.

(g) Welding:

(1) All joints must be fusion welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion welding to be performed by fabricators certified by the Association of American Railroads as certified to meet the requirements of this specification. All joints must be fusion welded in accordance with the requirements of the AAR Welding Code, Appendix W, except that the following requirements supersede requirements listed under "Test Plates", "Bend Test", and "Impact Test" of Appendix W:

(2) Test plates: A welded test plate of the dimensions shown in Figure W-2 shall be made for each container using the same weld procedure as used in welding the longitudinal seams of the container. Test plates shall be prepared from material having the same material specification and mill heat numbers as used in the shell or main heads of the inner container. After welding is completed, the test plate shall be radiographed and the standards of judgment of weld acceptability as set forth in paragraph 10.74-1 of AAR

Welding Code, Appendix W, shall be followed.

(3) Test specimens: The following test specimens shall be removed from the welded test plate and submitted to tests prescribed below:

(i) Bend test. Four transverse bend test specimens shall be removed from the welded test plate transverse to the welded joint of the test plate. The specimens shall be of rectangular cross section  $1\frac{1}{2}$  inches wide and the full thickness of the test plate. Weld reinforcements on each side of each test specimen shall be removed flush with the plane of the plate surface. Specimens shall be saw cut from the test plate. Removal of test specimens from the test plate by means of flame cutting is prohibited. The specimens shall be submitted to a guided bend test and two transverse face bend tests and two transverse root bend tests shall be performed. A bend test specimen that reveals no cracks or other open defects exceeding  $\frac{1}{8}$  inch measured in any direction on the convex surface of the specimen shall be considered to have passed the bend test. Cracks occurring on the corners of the specimen during the test shall not be considered as cause for rejection, unless there is definite evidence that they are the result of slag inclusions in the weld or other internal defects.

(ii) Impact tests. Three sets of three impact test specimens shall be sawcut from the welded test plate. These specimens shall be used for determining the impact properties of the plate material, weld zone and heat affected zone. Impact test specimens shall be of the Charpy type, milled U-notch, with the base of the notch normal to the plate surface, and shall conform in all respects to Figure 3 of ASTM Specification E-23-56-T. Impact test specimens shall be cooled in liquid nitrogen ( $-320$  degrees Fahrenheit). The apparatus for testing the specimens shall be in accordance with the requirements of ASTM Specification E-23-56-T. The test piece and handling tongs shall be cooled for a length of time sufficient to reach the temperature of liquid nitrogen. The specimen shall be quickly transferred from the cooling device to the anvil of the testing machine and broken within a time lapse of not more than six (6) seconds.

(iii) Impact properties. The impact properties of each set of impact specimens shall be not less than the values listed below:

Size of specimen	Minimum impact value required for average of each set of 3 specimens	Minimum impact value permitted on 1 specimen only of each set of 3 specimens
55 mm x 10 mm x 10 mm...	15 ft-lb.....	10.0 ft-lb.
55 mm x 10 mm x 7.5 mm...	12.5 ft-lb.....	8.5 ft-lb.
55 mm x 10 mm x 5 mm...	10 ft-lb.....	7.0 ft-lb.
55 mm x 10 mm x 2.5 mm...	5 ft-lb.....	3.5 ft-lb.

When the average value of the three specimens equals or exceeds the minimum value permitted for a single specimen, and the value for more than one specimen is less than the minimum value required for the average of the three specimens, or when the impact value of

one specimen is below the minimum value permitted for a single specimen, a retest of three additional specimens shall be made. The value from each retest specimen shall equal or exceed the minimum value required for the average of 3 specimens given above. When an erratic result is caused by a defective specimen or there is uncertainty in the test procedure, a retest is authorized.

(h) Radiography: All longitudinal and circumferential double-butt fusion-welded joints shall be examined throughout their entire length by the X-ray or Gamma-ray method of radiography. The standards of judgment for acceptability of welds examined by radiography shall be in accordance with paragraph W-10.74-1 of AAR Welding Code, Appendix W.

(i) Stress-relieving: Stress-relieving of the inner container is not a requirement of this specification.

(j) Cleaning interior container: The interior of the tank and all lines connecting to it shall be thoroughly cleaned.

(k) Test of inner container: After all items to be welded to the inner container have been welded in place, the container shall be completely filled with water, which must not exceed 100 degrees Fahrenheit during the prescribed test period, and a pressure of not less than 60 pounds per square inch applied. The container must hold the prescribed pressure for a period of 10 minutes without leakage or evidence of distress. Calking of welded joints to stop leakage is prohibited. Repairs in welded joints must comply with all requirements of paragraph (g) of this section.

#### § 78.279-3 Outer shell: Requirements for design, material and construction.

(a) The outer shell shall be a fusion-welded cylindrical shell with formed heads convex outward and designed to withstand an external pressure of one atmosphere.

(b) Material:

(1) All plate material in the outer shell shall be open-hearth flange quality or firebox quality steel, the carbon content of which shall not exceed 0.31 percent. Steel plate material in accordance with material specifications listed in Group 1, Table "A", of AAR Welding Code, Appendix W, are approved for use in the outer shell of tanks built to this specification.

(2) All steel castings, steel forgings, and steel structural shapes shall be of material to an approved specification.

(3) Rivets, when used, shall be of steel to an approved specification.

(c) Thickness of plates: The wall thickness of steel plates in the cylindrical portion of the outer shell shall be not less than  $7/16$  inch.

(d) Heads: The formed heads at each end of the outer shell shall be an ellipsoid of revolution in which the major axis shall equal the inside diameter of the shell and the minor axis shall be one-half of the major axis. Formed heads of other approved contours may be used, but in no case shall the wall thickness be less than  $7/16$  inch.

(e) Access through outer shell: The outer shell shall be provided with a welded access to the inner container through

its welded access. The welded access closure shall have a minimum diameter of 16 inches and shall be so designed as to allow opening by grinding a minimum of welds and re-closing by re-welding without need for new parts. Cutting torch may not be used. The opening in the outer shell to provide for the welded access closure shall be reinforced in an approved manner. The closure material shall be the same as the outer shell.

(f) Suspension system for inner container: The inner container shall be suspended and supported within the outer shell by a suspension system of adequate strength and ductility at its operating temperature to support the inner container when filled with liquid lading to any level incidental to operation of the complete unit as a railway tank car. The suspension system design shall be capable of withstanding impact loads producing accelerations of the following magnitudes and directions when the inner container is fully loaded, and the car is equipped with conventional AAR Spec. M-901 draft gear:

Longitudinal .....	7G
Transverse .....	3G
Vertical .....	3G

The longitudinal acceleration may be reduced to 3G where an approved design cushioning device which has been tested and demonstrated to limit body forces to 400,000 pounds maximum at 10 miles per hour is used between the coupler and tank structure. The suspension system shall be of an approved design and such that the inner container shall be thermally isolated from the outer shell to the best practicable extent.

(g) Stiffening rings: If used, stiffening rings shall be attached to the wall of the outer shell by means of fillet welds on each side of the ring. Outside stiffening ring attachment welds shall be continuous. Inside stiffening ring attachment welds may be continuous or intermittent. When intermittent fillet welds are used, the total length of welds on each side of the ring shall be not less than one-half of the outside circumference of the shell. Where continuous welds are used, a portion of the vacuum casing as wide as the widest part of the stiffening ring may be used in calculating the ring moment of inertia. Stiffening rings shall have a moment of inertia large enough to support an external pressure of 37.5 psi as determined by the following formula:

$$I = \frac{0.035D^3 L P_c}{E}$$

where:

I = Moment of inertia of stiffener about centroidal axis parallel to vessel axis -- in. 4.

D = Outside diameter of shell -- inches.

L = One-half of the distance from the centerline of the stiffening ring to the next line of support on one side, plus one-half of the centerline distance to the next line of support, if any, on the other side of the stiffening ring, both measured parallel to the axis of the vessel -- inches. (A line of support is (1) a stiffening ring that meets the requirements of this paragraph, or (2) a circumferential line on a head at one-third the depth of the head from the head bend line.)

$P_c$  = Critical collapsing pressure = 37.5 lb./sq. in. minimum.

E = Modulus of elasticity of stiffener material -- lb./sq. in.

The cylindrical portion of the outer shell between stiffening rings shall be stiff enough to withstand an external pressure of 37.5 psi (critical collapsing pressure) as determined by the following formula:

$$P_c = \frac{2.60E (t/D)^{5/2}}{LD - 0.45 (t/D)^{1/2}}$$

where

$P_c$  = Critical collapsing pressure = 37.5 lb./sq. inch minimum.

E = Modulus of elasticity of shell material -- lb./sq. inch.

t = Minimum thickness of shell material -- inches.

D = Outside diameter of shell -- inches.

L = Distance between stiffening ring centers -- inches. The heads may be considered as stiffening rings located one-third of the head depth from the head bend line to the head dish.

(h) Annular space: The distance between the outside wall of the inner container and the inside wall of the outside shell shall be not less than 2 inches.

(i) Vacuum: The annular space between the inner container and outer shell shall be evacuated to an absolute pressure of 150 microns of mercury or less at not less than 60° F.

(j) Insulation: The annular space between the two shells shall contain an approved insulating material so installed as to insure against settling and the creation of voids in the insulation when the car is in service. The material shall not burn or spark when touched with a glowing platinum wire in an atmosphere of air or lading. The insulation must be such that the total heat transfer from the atmosphere at ambient temperature to the lading at atmospheric pressure will not vaporize more than 5.2 pounds of liquefied hydrogen per hour (1,000 cfh normal temperature pressure at 60° F.) when the car is stationary.

(k) Welding: Longitudinal and circumferential seams in the cylindrical portion of the outer shell shall be fusion welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion welding to be performed by fabricators certified by the Association of American Railroads as certified to meet the requirements of this specification. All double-butt joints in the cylindrical portion of the outer shell must be fusion welded in accordance with the requirements of the AAR Welding Code, Appendix W. Circumferential joints joining the heads to the cylindrical portion of the outer shell shall be single-welded butt joints using a backing strip on the inside of the joint. If the interior of the vacuum casing is divided into compartments, the compartment heads shall be attached inside the shell by fillet welding.

(l) Radiography: All longitudinal and circumferential double-butt fusion-welded joints shall be examined throughout their entire length by the X-ray or Gamma-ray method of radiography. The standards of judgment for acceptability of welds examined by radiography

shall be in accordance with paragraph W-10.74-1 of AAR Welding Code, Appendix W.

(m) Stress-relieving: Stress-relieving of the cylindrical portion of the outer shell, with all items to be secured to the shell by welding, welded in place, shall be in accordance with the requirements of paragraph W-15.01, of AAR Welding Code, Appendix W. The tank heads of each end of the shell need not be stress relieved. Welds securing supports for the inner suspension system to the outer shell need not be stress relieved.

(n) Tests of outer shell: Hydrostatic testing of outer shell is not a specification requirement.

§ 78.279-4 Piping-vacuum line, vapor vent line, loading and unloading line.

(a) The piping systems for vapor venting line and loading and unloading line shall be of materials having satisfactory physical properties when in contact with lading.

(b) Vacuum line: The outer shell shall be provided with a vacuum line for effective evacuation of the annular space between the outer shell and inner container, mounted in an accessible position within the housing described in § 78.279-7.

(c) Vapor vent line:

(1) The vapor vent line shall be of sufficient size to prevent excessive internal pressure in the inner container.

(2) The vapor line shall be provided with a manually operated shut-off valve located in the line and mounted in an accessible position within the housing described in § 78.279-7, and as close to the outer shell as possible.

(3) The vapor line shall terminate in a fitting with cover and shall be tight against the passage of vapor or liquid. Provisions shall be made so that accidental discharge of the vapor shall be accomplished in a safe and adequate manner without impinging on any metal structures of the outer shell, underframe, or trucks.

(4) A blowdown line shall also be provided, with a manually operated valve located in the line and mounted in an accessible position within the housing described in § 78.279-7, and as close to the outer shell as possible. The outlet from this valve shall be outside the control housing and positioned so that the discharge will not endanger operating or maintenance personnel, and directed upward.

(d) Loading and unloading line:

(1) A liquid phase line shall be provided for loading and unloading the inner container and a vapor trap shall be incorporated in the line. That portion of the line external to the outer shell shall be vacuum-jacketed.

(2) The liquid line shall be provided with a manually operated vacuum-jacketed shut-off valve located in the line and mounted in an accessible position within the housing described in § 78.279-7, and as close to the outer shell as possible.

(3) The liquid line shall terminate in a fitting with cover and shall be tight against the passage of vapor or liquid. Provisions shall be made so that accidental discharge of the liquid shall be ac-

complished in a safe and adequate manner without impinging on any metal structures of the outer shell, underframe, or trucks.

(e) Pressure building system: Not a specification requirement. If a pressure building system is provided for the purpose of pressurizing the vapor space of the inner container to facilitate unloading the liquid lading, the system shall be of approved design.

#### § 78.279-5 Safety relief devices.

(a) The tank shall be provided with safety relief devices for the protection of the tank assembly and piping systems. All safety devices shall be installed in accessible locations and positioned so that discharge from these devices will not endanger operating or maintenance personnel or impinge on principal load bearing members of the outer shell, underframe or trucks. All safety device discharges shall be outside the control housing, and the safety devices shall have no vent or weep holes.

(b) Materials: Materials used in safety devices shall be suitable for use at minus 423 degrees Fahrenheit and resistant to corrosion caused by the lading in the liquid or vapor phase.

(c) Inner container: Safety devices for the inner container shall be attached to piping connected to the vapor phase of the inner container and mounted such as to remain in ambient temperature prior to operation. Additional requirements are as follows:

(1) *Frangible disc.* The inner container shall be equipped with a frangible disc without an intervening shut-off valve and designed to rupture at a pressure of not more than 45 psig. The frangible disc capacity shall be sufficient to limit the pressure within the inner container to 45 psig during all conditions of operation both normal and abnormal including loss of vacuum, fire, and upset. The discharge shall be directed upward.

(2) *Safety relief valve.* The inner container shall be equipped with a spring-loaded relief valve without an intervening shut-off valve and set to start-to-discharge at a pressure not greater than 30 psig. Safety relief valve capacity shall be sufficient to limit the pressure within the inner container to 36 psig even when the insulation space is filled with gaseous hydrogen at atmospheric pressure (no vacuum) and the outer casing is at 130 degrees Fahrenheit. The minimum size relief valve body shall be 3/4 inch NPT. The discharge shall be directed upward.

(3) *Pressure control device.* The inner container shall be equipped with an approved device to prevent the discharge of a mixture exceeding 50 percent of the lower flammable limit to the atmosphere under normal conditions of storage and transport of lading. This device shall be set to start-to-discharge at a pressure not greater than 17 psig and shall have sufficient capacity to limit the pressure within the inner container to 17 psig when the discharge is equal to twice the normal venting rate during transportation with normal vacuum and the outer casing at 130 degrees Fahrenheit.

(4) *Safety interlock.* Not a specification requirement. If a safety interlock is provided for the purpose of allowing transfer of the lading at a pressure higher than the pressure control device setting but less than the safety relief valve setting, the design shall be as follows: The safety interlock shall not affect the discharge path of the safety relief valve or frangible disc at any time. The safety interlock shall automatically provide an unrestricted discharge path for the pressure control device at all times except when the inner container is being pressurized through the vapor vent line shut-off for the transfer of lading. The safety interlock shall automatically prevent operation of the pressure control device only when the inner container is being pressurized through the vapor vent line shut-off valve for transfer of lading. Automatic operation shall be assured by an approved design mechanical interlock between the vapor vent line shut-off valve and a pressure control device shut-off valve.

(d) *Outer shell.* The outer shell shall be provided with a frangible disc designed to rupture at a pressure not exceeding 16 psig. The discharge capacity of the frangible disc shall be sufficient to vent pressure accumulating within the annular space. The frangible disc shall be designed to prevent distortion of the frangible disc when the annular space is evacuated.

(e) *Piping system.* Additional pressure relief valves shall be installed in each piping circuit where the system can be isolated by closing the shut-off valves so that a dangerous pressure can be built up. These relief valves shall be designed to open at a pressure sufficiently low to prevent damage to the component or system affected.

#### § 78.279-6 Control valve and gauges.

(a) Control valves:

(1) Manually operated shut-off valves and control valves shall be provided wherever needed for control of the vapor phase pressure, vapor phase venting, liquid transfer and liquid flow rates.

(2) Control valves and shut-off valves shall be designed and constructed to provide positive shut-off, and to provide minimum resistance to flow when open. These valves shall be so constructed that packing glands and control handles are separated from the valve bodies by a sufficient length of corrosion-resistant material to reduce to a minimum the collection of frost on the control handles when low temperature gas or liquid is passing through or in contact with the valve parts.

(3) Control valves and shut-off valves shall be of approved design and fabricated from materials not adversely affected by extended periods of contact with the lading in the liquid or vapor phase, or moist air and water.

(4) Packing used in these valves shall be satisfactory for use in contact with the lading in the liquid or vapor phase and shall be of approved materials which will effectively seal the valve stem without causing difficulty of operation.

(5) Control valves and shut-off valves shall be so mounted and installed that

they can be readily operated and their control handles will be readily accessible to the operator. These valves shall be so mounted that operation of the valves will not transmit excessive forces to the piping system.

(b) Instruments necessary to the effective and safe operation of the tank when transporting, transferring or storing the liquid commodities for which the car is designed shall be provided. These instruments shall be located within the housing prescribed in § 78.279-7 and shall include the following:

(1) *Liquid level gauge.* Connections shall be provided for a liquid level gauge of approved design to indicate the quantity of liquid commodity within the inner container. This gauge may be portable or securely mounted in a position where it will be readily visible to an operator during storage, transfer or filling operation. A fixed length dip tube shall also be provided at the level of the liquid when filled to the allowable filling density at 1 psig.

(2) *Vapor phase pressure gauge.* A vapor phase pressure gauge of approved design shall be provided to indicate the vapor pressure within the inner container. The gauges shall be securely mounted in a position within the housing prescribed in § 78.279-7 where it will be readily visible to an operator.

(3) *Vacuum gauge.* A vacuum gauge of approved design may be provided to indicate the absolute pressure within the annular space between the outer shell and the inner container. The gauge shall be securely mounted within the housing prescribed in § 78.279-7 where it will be readily visible. If a vacuum gauge is not provided, a connection for a portable vacuum gauge shall be provided, located as above.

#### § 78.279-7 Control housing.

(a) A housing shall be provided for the purpose of containing and to provide protection for piping, control valves, shut-off valves, pressure relief valves and various gauges necessary to the safe operation of this car. A housing shall be designed to protect the enclosed components from direct solar radiation, rain, sleet, snow, mud, sand and other adverse environmental conditions. The control housing shall be of sufficient size to provide ready access to the enclosed components for operation, servicing, maintenance and repairs. Construction of the control housing shall be such that lading vapor concentration cannot build up to a dangerous level inside it in the event of valve leakage or safety device operation, and may incorporate access panels to facilitate inspection, servicing, maintenance, and repair. Access to the housing for operation of controls during transfer and filling operations shall be by means of doors which will provide unrestricted opening into the housing and an unobstructed view of the interior. The doors shall be equipped with sturdy latches and shall be readily operable by personnel wearing heavy gloves and shall include provisions for locking with padlocks. Approved means shall be provided to protect critical piping and con-

trols from being rendered inoperable due to derailment or upset.

**§ 78.279-8 Instrument panel and operating instructions.**

(a) An instrument panel shall be provided within the housing prescribed in § 78.279-7 on which shall be securely mounted various gauges as prescribed in this specification. A plate of corrosion-resistance material bearing directions and precautionary instructions for the safe operation of this equipment during storage, transfer and filling operations shall be securely mounted so as to be readily visible to the operator. The instructions shall be clear, concise and adequate in description of the operations to be performed by the operator during storage, transfer and filling operations. These instructions shall include a diagram of the tank and its piping system, with the various control valves and safety devices clearly identified and located.

**§ 78.279-9 Tank mounting.**

(a) The manner in which the tank is supported on and securely attached to the car structure must be approved. For design requirements for anchorage, tank bands and bolster slabbing, see Section H, Car Structure of AAR Specifications for Tank Cars.

**§ 78.279-10 Markings.**

(a) Each tank must be marked certifying that the tank complies with all requirements of this specification. These marks must be as follows:

(1) ICC-113A60-W-2 in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal near the center of the main head of the outer shell at the "B" end of car by the tank builder or the party assembling the complete tank unit. This mark must also be stenciled on the outer shell in letters and figures at least 2 inches high by the party assembling the complete car.

(2) Initials of the builder of the inner container, together with information as to the material used for the shell and heads of the inner container, shell thickness, head thickness and inside diameter of the inner container shall be stamped in letters and figures at least  $\frac{3}{8}$  inch high into the metal immediately below the marks specified in subparagraph (1) of this paragraph.

(3) Initials of builder of the outer shell in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal immediately below the marks specified in subparagraph (2) of this paragraph.

(4) Date of original test of inner container and initials of party conducting the test in letters and figures at least  $\frac{3}{8}$  inch high plainly and permanently stamped immediately below the marks specified in subparagraph (3) of this paragraph. Any marking, stenciling or stamping on the shell or heads of the inner container is prohibited. These markings must also be stenciled on the outer shell in letters and figures at least 2 inches high.

(5) Initials of company assembling the complete car in letters and figures at least  $\frac{3}{8}$  inch high plainly and per-

manently stamped immediately below the marks specified in subparagraph (4) of this paragraph. These marks must also be stenciled on the outer shell in letters and figures at least 2 inches high.

(6) In lieu of stamping required in subparagraphs (1), (2), (3), (4) and (5) of this paragraph, the markings specified by these paragraphs may be incorporated on a data plate of corrosion-resistant metal fillet welded in place on the main head of the outer shell of the "B" end of the car.

(7) Date on which the principal pressure relief valves were tested, pressure at which tested, place where tested and initials of party making test, shall be stenciled on the outer shell in letters and figures at least 1 inch high.

(8) Date on which the frangible disc was replaced in various bursting disc assemblies, identification of the manufacturer and type of bursting disc applied, rated rupture pressure of the bursting disc applied, and initials of the party making the replacement shall be stenciled on the outer shell in letters and figures 1 inch high.

(9) Tank cars of approved design built to this specification are authorized for the transportation of liquefied hydrogen only. The name of the commodity loaded into the inner container shall be indicated by stenciling the name of the commodity followed by the word "only" in letters at least 2 inches high on the outer shell.

**§ 78.279-11 Reports.**

(a) Before a tank car is placed in service, the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of welded repairs to, alterations of or additions to tanks or equipment from original design and construction, all of which must be approved, there must be furnished to the same parties a report in detail of the welded repairs, alterations or additions made to each tank covered by a particular application, showing the initials and number of each tank involved.

Amend entire § 78.280-15 (21 F.R. 4587, June 26, 1956) (22 F.R. 7843, Oct. 3, 1957) to read as follows:

**§ 78.280 Specification ICC-103-W; fusion-welded steel tanks to be mounted on or forming part of a car.**

**§ 78.280-15 Bottom outlets.**

(a) The bottom outlet, when installed, must be made of metal not subject to rapid deterioration by the lading, be of approved design, and be provided with a liquid tight closure at the lower end.

(b) The valve and its operating mechanism may be applied to the interior or the outside bottom of the tank. The design must insure positive closure during transit.

(c) The bottom outlet nozzle of interior valves and the valve body of exterior valves, may be of cast, fabricated or forged metal. If welded to the tank,

they must be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of unloading connection, the bottom of the main portion of the outlet nozzle, or valve body of exterior valves, 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.

(e) For outlet nozzles that extend 6 inches or more from the shell of the tank, a "V" groove must be cut (not cast) in the upper part of the outlet nozzle at a point immediately below the lowest part of the valve to a depth that will leave the thickness of nozzle wall at root of the "V" not over  $\frac{3}{8}$  inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent must be below the steam chamber. Where the outlet nozzle is not a single piece, or when exterior valves are applied, arrangement must be made to provide the equivalent of a breakage groove.

(f) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of the lading, or other causes, and which will insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(g) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome or tank shell, leakage must be prevented by packing in a stuffing box or other suitable seals and a cap.

(i) In no case must the extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least a  $\frac{3}{8}$  inch chain or its equivalent, except that outlet closure plugs may be attached by  $\frac{1}{4}$  inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection of the valve must be closed by a plug or cap.

Amend entire § 78.284-15 (21 F.R. 4598, June 26, 1956) (22 F.R. 7844, Oct. 3, 1957) 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.**

**§ 78.284-15 Bottom outlets.**

(a) The bottom outlet, when installed, must be made of metal not subject to rapid deterioration by the lading, be of approved design, and be provided with a liquid tight closure at the lower end.

## RULES AND REGULATIONS

(b) The valve and its operating mechanism may be applied to the interior or the outside bottom of the tank. The design must insure positive closure during transit.

(c) The bottom outlet nozzle of interior valves and the valve body of exterior valves, may be of cast, fabricated or forged metal. If welded to the tank, they must be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or valve body of exterior valves, 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.

(e) For outlet nozzles that extend 6 inches or more from the shell of the tank, a "V" groove must be cut (not cast) in the upper part of the outlet nozzle at a point immediately below the lowest part of the valve to a depth that will leave the thickness of nozzle wall at root of the "V" not over  $\frac{3}{8}$  inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent must be below the steam chamber. Where the outlet nozzle is not a single piece, or when exterior valves are applied, arrangement must be made to provide the equivalent of a breakage groove.

(f) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of the lading, or other causes, and which will insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(g) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome or tank shell, leakage must be prevented by packing in a stuffing box or other suitable seals and a cap.

(i) In no case must the extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least a  $\frac{3}{8}$  inch chain or its equivalent, except that outlet closure plugs may be attached by  $\frac{1}{4}$  inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection of the valve must be closed by plug or cap.

Amend entire § 78.291-14 (21 F.R. 4607, June 26, 1956) (22 F.R. 7844, Oct. 3, 1957) to read as follows:

§ 78.291 Specification ICC-103AL-W; fusion-welded aluminum tanks to be mounted on or forming part of a car.

§ 78.291-14 Bottom outlets.

(a) The bottom outlet, when installed, must be made of metal not subject to rapid deterioration by the lading, be of approved design, and be provided with a liquid tight closure at the lower end.

(b) The valve and its operating mechanism may be applied to the interior or the outside bottom of the tank. The design must insure positive closure during transit.

(c) The bottom outlet nozzle of interior valves and the valve body of exterior valves, may be of cast, fabricated or forged metal. If welded to the tank, they must be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or valve body of exterior valves, 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.

(e) For outlet nozzles that extend 6 inches or more from the shell of the tank, a "V" groove must be cut (not cast) in the upper part of the outlet nozzle at a point immediately below the lowest part of the valve to a depth that will leave the thickness of nozzle wall at root of the "V" not over  $\frac{3}{8}$  inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent must be below the steam chamber. Where the outlet nozzle is not a single piece, or when exterior valves are applied, arrangement must be made to provide the equivalent of a breakage groove.

(f) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of the lading, or other causes, and which will insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(g) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome or tank shell, leakage must be prevented by packing in a stuffing box or other suitable seals and a cap.

(i) In no case must the extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least a  $\frac{3}{8}$  inch chain

or its equivalent, except that outlet closure plugs may be attached by  $\frac{1}{4}$  inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection of the valve must be closed by a plug or cap.

Amend entire § 78.297-14 (21 F.R. 4620, June 26, 1956) (22 F.R. 7847, Oct. 3, 1957) 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.

§ 78.297-14 Bottom outlets.

(a) The bottom outlet, when installed must be made of metal not subject to rapid deterioration by the lading, be of approved design, and be provided with a liquid tight closure at the lower end.

(b) The valve and its operating mechanism may be applied to the interior or the outside bottom of the tank. The design must insure positive closure during transit.

(c) The bottom outlet nozzle of interior valves and the valve body of exterior valves, may be of cast, fabricated or forged metal. If welded to the tank, they must be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of unloading connection, the bottom of the main portion of the outlet nozzle, or valve body of exterior valves, 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.

(e) For outlet nozzles that extend 6 inches or more from the shell of the tank, a "V" groove must be cut (not cast) in the upper part of the outlet nozzle at a point immediately below the lowest part of the valve to a depth that will leave the thickness of nozzle wall at root of the "V" not over  $\frac{3}{8}$  inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent must be below the steam chamber. Where the outlet nozzle is not a single piece, or when exterior valves are applied, arrangement must be made to provide the equivalent of a breakage groove.

(f) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from the expansion of the lading, or other causes, and which will insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(g) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome or tank shell, leakage must be prevented by pack-

ing in a stuffing box or other suitable seals and a cap.

(i) In no case must the extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least a  $\frac{3}{8}$  inch chain or its equivalent, except that outlet closure plugs may be attached by  $\frac{1}{4}$  inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection of the valve must be closed by a plug or cap.

Amend entire § 78.303-16 (22 F.R. 4801, July 9, 1957) (22 F.R. 7847, Oct. 3, 1957) to read as follows:

§ 78.303 Specification ICC-111A100-W-1; fusion-welded steel tanks, or ICC-111A100-F-1, forge-welded steel tanks fabricated by conversion from existing ICC-105A300, 400, or 500 series tanks to be mounted on or forming part of a car.

§ 78.303-16 Bottom outlets.

(a) The bottom outlet, when installed, must be made of metal not subject to rapid deterioration by the lading, be of approved design, and be provided with a liquid tight closure at the lower end.

(b) The valve and its operating mechanism may be applied to the interior or the outside bottom of the tank. The design must insure positive closure during transit.

(c) The bottom outlet nozzle of interior valves and the valve body of exterior valves, may be of cast, fabricated or forged metal. If welded to the tank, they must be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or valve body of exterior valves, 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.

(e) For outlet nozzles that extend 6 inches or more from the shell of the tank, a "V" groove must be cut (not cast) in the upper part of the outlet nozzle at a point immediately below the lowest part of the valve to a depth that will leave the thickness of nozzle wall at root of the "V" not over  $\frac{3}{8}$  inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent must be below the steam chamber. Where the outlet nozzle is not a single piece, or when exterior valves are applied, arrangement must be made to provide the equivalent of a breakage groove.

(f) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of the lading, or other causes, and which will insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(g) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must

be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome or tank shell, leakage must be prevented by packing in a stuffing box or other suitable seals and a cap.

(i) In no case must the extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least a  $\frac{3}{8}$  inch chain or its equivalent, except that outlet closure plugs may be attached by  $\frac{1}{4}$  inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection of the valve must be closed by a plug or cap.

In § 78.304 amend the heading and paragraph (a); in § 78.304-15 amend paragraph (a) (22 F.R. 4802, 4803, July 9, 1957) to read as follows:

§ 78.304 Specification ICC-111A100-W-2; fusion-welded steel tanks, or ICC-111A100-F-2 forge-welded steel tanks fabricated by conversion from existing ICC-105A300, 400, 500 or ARA-V series tanks to be mounted on or forming part of 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*, paragraphs (a), (b), (c) and (d).

\* \* \* \* \*  
§ 78.304-15 Closures for manway.

(a) The manway cover must be of bolted type, bolted and hinged type, or other approved types, and designed to provide a secure closure of the manway.

\* \* \* \* \*

Amend entire § 78.305-16 (22 F.R. 4805, July 9, 1957) (22 F.R. 7847, Oct. 3, 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.

(a) The bottom outlet, when installed, must be made of metal not subject to rapid deterioration by the lading, be of approved design, and be provided with a liquid tight closure at the lower end.

(b) The valve and its operating mechanism may be applied to the interior or the outside bottom of the tank. The design must insure positive closure during transit.

(c) The bottom outlet nozzle of interior valves and the valve body of exterior valves, may be of cast, fabricated or forged metal. If welded to the tank, they must be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or valve body of exterior valves, 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.

(e) For outlet nozzles that extend 6 inches or more from the shell of the tank, a "V" groove must be cut (not cast) in the upper part of the outlet nozzle at a point immediately below the lowest part of the valve to a depth that will leave the thickness of nozzle wall at root of the "V" not over  $\frac{3}{8}$  inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent must be below the steam chamber. Where the outlet nozzle is not a single piece, or when exterior valves are applied, arrangement must be made to provide the equivalent of a breakage groove.

(f) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of the lading, or other causes, and which will insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(g) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome or tank shell, leakage must be prevented by packing in a stuffing box or other suitable seals and a cap.

(i) In no case must the extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least a  $\frac{3}{8}$  inch chain or its equivalent except that outlet closure plugs may be attached by  $\frac{1}{4}$  inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection of the valve must be closed by a plug or cap.

Amend entire § 78.310-16 (24 F.R. 3605, May 5, 1959) to read as follows:

§ 78.310 Specification ICC-111A60AL-W; fusion-welded aluminum tanks to be mounted on or forming part of a car.

§ 78.310-16 Bottom outlets.

(a) The bottom outlet, when installed, must be made of metal not subject to rapid deterioration by the lading, be of approved design, and be provided with a liquid tight closure at the lower end.

(b) The valve and its operating mechanism may be applied to the interior or the outside bottom of the tank. The design must insure positive closure during transit.

(c) The bottom outlet nozzle of interior valves and the valve body of exterior valves, may be of cast, fabricated

or forged metal. If welded to the tank, they must be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or valve body of exterior valves, 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.

(e) For outlet nozzles that extend 6 inches or more from the shell of the tank, a "V" groove must be cut (not cast) in the upper part of the outlet nozzle at a point immediately below the lowest part of the valve to a depth that will leave the thickness of nozzle wall at root of the "V" not over  $\frac{3}{8}$  inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent must be below the steam chamber. Where the outlet nozzle is not a single piece, or when exterior valves are applied, arrangement must be made to provide the equivalent of a breakage groove.

(f) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of the lading, or other causes, and which will insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(g) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome or tank shell, leakage must be prevented by packing in a stuffing box or other suitable seals and a cap.

(i) In no case must the extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least a  $\frac{3}{8}$  inch chain or its equivalent, except that outlet closure plugs may be attached by  $\frac{1}{4}$  inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection of the valve must be closed by a plug or cap.

Amend entire § 78.311-16 (24 F.R. 3608, May 5, 1959) to read as follows:

§ 78.311 Specification ICC-111A100-W-6; fusion-welded alloy steel tanks to be mounted on or forming part of a car.

§ 78.311-16 Bottom outlets.

(a) The bottom outlet, when installed, must be made of metal not subject to rapid deterioration by the lading, be of

approved design, and be provided with a liquid tight closure at the lower end.

(b) The valve and its operating mechanism may be applied to the interior or the outside bottom of the tank. The design must insure positive closure during transit.

(c) The bottom outlet nozzle of interior valves and the valve body of exterior valves, may be of cast, fabricated or forged metal. If welded to the tank, they must be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or valve body of exterior valves, 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.

(e) For outlet nozzles that extend 6 inches or more from the shell of the tank, a "V" groove must be cut (not cast) in the upper part of the outlet nozzle at a point immediately below the lowest part of the valve to a depth that will leave the thickness of nozzle wall at root of the "V" not over  $\frac{3}{8}$  inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent must be below the steam chamber. Where the outlet nozzle is not a single piece, or when exterior valves are applied, arrangement must be made to provide the equivalent of a breakage groove.

(f) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of the lading, or other causes, and which will insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(g) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome or tank shell, leakage must be prevented by packing in a stuffing box or other suitable seals and a cap.

(i) In no case must the extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least a  $\frac{3}{8}$  inch chain or its equivalent, except that outlet closure plugs may be attached by  $\frac{1}{4}$  inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection of the valve must be closed by a plug or cap.

[F.R. Doc. 62-11882; Filed, Nov. 30, 1962; 8:51 a.m.]

## Title 7—AGRICULTURE

### Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Orange Reg. 19]

#### PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

##### Limitation of Shipments

##### § 905.351 Orange Regulation 19.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, including Temple oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of oranges, including Temple oranges, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on November 27, 1962, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are, except with respect to the prohibition of shipments recommended for the period December 22-27, 1962, both dates inclusive, identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to pro-

vide for the continued regulation of the handling of oranges, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Oranges and Tangelos (§§ 51.1140-51.1178 of this title).

(2) During the period beginning at 12:01 a.m., e.s.t., December 3, 1962, and ending at 12:01 a.m., e.s.t., January 14, 1963, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any oranges, including Temple oranges, grown in the production area, which do not grade at least U.S. No. 1 Russet;

(ii) Any oranges except Temple oranges, grown in the production area, which are of a size smaller than  $2\frac{3}{16}$  inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said United States Standards for Florida Oranges and Tangelos: *Provided*, That in determining the percentage of oranges in any lot which are smaller than  $2\frac{3}{16}$  inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size  $2\frac{1}{16}$  inches in diameter or smaller; or

(iii) Any Temple oranges, grown in the production area, which are of a size smaller than  $2\frac{3}{16}$  inches in diameter, except that a tolerance of 10 percent, by count, of Temple oranges smaller than such minimum diameter shall be permitted which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the aforesaid United States Standards for Florida Oranges and Tangelos.

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

Dated: November 29, 1962.

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

[F.R. Doc. 62-11941; Filed, Nov. 30, 1962; 8:51 a.m.]

[Grapefruit Reg. 19]

## PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

### Limitation of Shipments

#### § 905.352 Grapefruit Regulation 19.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

Order No. 905 as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of all grapefruit, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on November 27, 1962, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are, except with respect to the prohibition of shipments recommended for the period December 22-27, 1962, both dates inclusive, identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Grapefruit (§§ 51.750-51.783 of this title).

(2) During the period beginning at 12:01 a.m., e.s.t., December 3, 1962, and ending at 12:01 a.m., e.s.t., January 14, 1963, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any grapefruit, grown in the production area, which do not grade at least U.S. No. 1 Russet;

(ii) Any seeded grapefruit, grown in the production area, which are smaller than  $3\frac{13}{16}$  inches in diameter, except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in said United States Standards for Florida Grapefruit; or

(iii) Any seedless grapefruit, grown in the production area, which are smaller than  $3\frac{3}{16}$  inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in said United States Standards for Florida Grapefruit.

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

Dated: November 29, 1962.

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

[F.R. Doc. 62-11940; Filed, Nov. 30, 1962; 8:51 a.m.]

[Tangelo Reg. 7]

## PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

### Limitation of Shipments

#### § 905.353 Tangelo Regulation 7.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon

## RULES AND REGULATIONS

which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of tangelos, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on November 27, 1962, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are, except with respect to the prohibition of shipments recommended for the period December 22-27, 1962, both dates inclusive, identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such tangelos; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of tangelos, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Oranges and Tangelos (§§ 51.1140-51.1178 of this title).

(2) During the period beginning at 12:01 a.m., e.s.t., December 3, 1962, and ending at 12:01 a.m., e.s.t., January 14, 1963, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any tangelos, grown in the production area, which do not grade at least U.S. No. 1 Russet; or

(ii) Any tangelos, grown in the production area, which are of a size smaller than  $2\frac{5}{16}$  inches in diameter, except that a tolerance of 10 percent, by count, of tangelos smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said United States Standards for Florida Oranges and Tangelos.

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

Dated: November 29, 1962.

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

[F.R. Doc. 62-11942; Filed, Nov. 30, 1962; 8:51 a.m.]

[Navel Orange Reg. 16]

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

**Limitation of Handling**

**§ 907.316 Navel Orange Regulation 16.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907; 27 F.R. 10087), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during

the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 29, 1962.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., December 2, 1962, and ending at 12:01 a.m., P.s.t., December 9, 1962, are hereby fixed as follows:

- (i) District 1: 1,300,000 cartons;
  - (ii) District 2: Unlimited movement;
  - (iii) District 3: 150,000 cartons;
  - (iv) District 4: Unlimited movement.
- (2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: November 30, 1962.

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

[F.R. Doc. 62-12003; Filed, Nov. 30, 1962; 11:28 a.m.]

**PART 949—IRISH POTATOES GROWN IN THE RED RIVER VALLEY OF NORTH DAKOTA AND MINNESOTA**

**Order Terminating Limitation of Shipments**

*Findings.* (a) Pursuant to Marketing Agreement No. 135 and Order No. 949 (7 CFR Part 949; formerly Order No. 38, Part 938), regulating the handling of Irish potatoes grown in the Red River Valley of North Dakota and Minnesota, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Red River Valley Potato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby determined that the currently effective limitation of shipments (§ 949.304; 27 F.R. 8027) no longer tends to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and unnecessary, and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this termination order beyond the date specified (5 U.S.C. 1003) in that: (1) termination of current regulations (§ 949.304) is recommended by the Red River Valley Potato Committee on the basis of information made known to them that a majority of potato producers polled by the committee have indicated a lack of support of the regulations; (2) information regarding the committee's

recommendation has been made available to producers and handlers in the production area, and (3) this relieves Marketing Order No. 949 restrictions on the handling of potatoes.

Order terminated. The provisions of § 949.304 (27 F.R. 8027) are hereby terminated as of December 1, 1962.

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

Dated November 28, 1962, to become effective December 1, 1962.

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

[F.R. Doc. 62-11904; Filed, Nov. 30, 1962; 8:51 a.m.]

Chapter X—Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders), Department of Agriculture

MILK IN PUGET SOUND, INLAND EMPIRE AND GREAT BASIN MARKETING AREAS

Orders Amending Orders

[Milk Order No. 125]

PART 1125—MILK IN PUGET SOUND, WASH., MARKETING AREA

§ 1125.0 Findings and determinations.

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

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Puget Sound marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

some milk, and be in the public interest; and

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

(b) Additional findings. It is necessary in the public interest to make this order amending the order effective not later than December 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued October 22, 1962, and the final decision of the Assistant Secretary containing all amendment provisions of this order, has been issued November 14, 1962. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011.)

(c) Determinations. It is hereby determined that:

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

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

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Puget Sound marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1125.7 is revised to read as follows:

§ 1125.7 Plant.

"Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment, which is maintained and operated primarily for the receiving, handling and processing of milk and milk products.

(a) The buildings, premises and facilities, including facilities for washing tanks, of a reload point used primarily as a location at which milk is transferred from one bulk farm pickup tank to another or to an over-the-road tank truck, and approved for such use by an appropriate health authority, shall constitute a plant, and any such reload point on the premises of a plant engaging in other operations shall constitute a part of the operations of such plant.

(b) The buildings, premises and storage facilities of a distribution point at which are stored en route in the course of disposition skim milk and butterfat in any of the forms specified in § 1125.41 (a) that have been processed and packaged in consumer-type packages at a fluid milk plant (or country plant qualified pursuant to the proviso of § 1125.9) shall not constitute a plant. Operations of such a distribution point located on the premises of a nonpool plant or a country plant not engaged in packaging milk in consumer-type packages shall not constitute a part of the operations of such plant. Skim milk or butterfat disposed of through such a distribution point shall be treated as though disposed of from the fluid milk plant or country plant at which it was processed and packaged.

(a) that have been processed and packaged in consumer-type packages at a fluid milk plant (or country plant qualified pursuant to the proviso of § 1125.9) shall not constitute a plant. Operations of such a distribution point located on the premises of a nonpool plant or a country plant not engaged in packaging milk in consumer-type packages shall not constitute a part of the operations of such plant. Skim milk or butterfat disposed of through such a distribution point shall be treated as though disposed of from the fluid milk plant or country plant at which it was processed and packaged.

2. In § 1125.41, paragraph (b) (3) is revised to read as follows:

§ 1125.41 Classes of utilization.

\* \* \* \* \*

(b) \* \* \*

(3) Disposed of in bulk in any of the forms specified in paragraph (a) of this section to bakeries, soup companies and candy manufacturing establishments in their capacity as such,

3. Section 1125.50 is revised to read as follows:

§ 1125.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. The basic formula price shall be rounded to the nearest full cent.

4. In § 1125.51 paragraphs (a) and (b) (3) are revised to read as follows:

§ 1125.51 Class prices.

\* \* \* \* \*

(a) Class I milk. The price for Class I milk shall be the basic formula price for the preceding month plus \$1.65: Provided, That the price for Class I milk for the months of April through June, inclusive, of any year shall not be higher than the price computed pursuant to the above provisions of this paragraph for the month of March immediately preceding, and the price for Class I milk for any

October through January period, inclusive, shall not be lower than the price computed pursuant to the provisions of this paragraph for the month of September immediately preceding.

(b) *Class II milk.* \* \* \*

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 80 cents plus five times the butterfat differential computed pursuant to § 1125.52(b).

§§ 1125.52, 1125.71, 1125.82  
[Amendment]

5. In §§ 1125.52, 1125.71, and 1125.82, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 133]

**PART 1133—MILK IN INLAND  
EMPIRE MARKETING AREA**

§ 1133.0 Findings and determinations.

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

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

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than December 1, 1962. Any delay

beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued October 22, 1962, and the final decision of the Assistant Secretary containing all amendment provisions of this order, has been issued November 14, 1962. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011.)

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

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

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

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

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

1. Section 1133.50 is revised to read as follows:

§ 1133.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. The basic formula price shall be rounded to the nearest full cent.

2. In § 1133.51 paragraphs (a) and (c) (3) are revised to read as follows:

§ 1133.51 Class prices.

(a) *Class I milk.* For each month the price for Class I milk shall be the basic formula price for the preceding month plus \$1.90 adjusted by the amount, but not in excess of 50 cents for any month, computed pursuant to paragraph (d) of this section.

(c) *Class III milk.* \* \* \*

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 80 cents plus five times the butterfat differential computed pursuant to § 1133.52(b), and round to the nearest cent.

§§ 1133.52, 1133.71, 1133.82 [Amendment]

3. In §§ 1133.52, 1133.71, 1133.82, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 136]

**PART 1136—MILK IN GREAT BASIN  
MARKETING AREA**

§ 1136.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Great Basin marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than December 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued October 22, 1962, and the final decision of the Assistant Secretary containing all amendment provisions of this order, has been issued November 14, 1962. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011.)

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

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

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

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

*Order relative to handling.* It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Great Basin marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1136.51 is revised to read as follows:

**§ 1136.51 Basic formula price.**

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the butter price for the month. The basic formula price shall be rounded to the nearest full cent.

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

Effective date: December 1, 1962.  
Signed at Washington, D.C., on November 27, 1962.

JOHN P. DUNCAN, JR.,  
Assistant Secretary.

[F.R. Doc. 62-11897; Filed, Nov. 30, 1962; 8:50 a.m.]

**Title 8—ALIENS AND NATIONALITY**

**Chapter I—Immigration and Naturalization Service, Department of Justice**

**PART 252—LANDING OF ALIEN CREWMEN**

**Crewmen Documentation**

The following amendment to Chapter I of Title 8 of the Code of Federal Regulations is hereby prescribed:

Paragraph (c) of § 252.1 is amended to read as follows:

**§ 252.1 Examination of crewmen.**

\* \* \* \* \*  
(c) *Requirements for admission.* Every alien crewman applying for landing privileges in the United States must make his application in person before an immigration officer, present whatever documents are required, and establish to the satisfaction of the immigration officer that he is not subject to exclusion under any provision of the law and is entitled clearly and beyond doubt to landing privileges in the United States.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment relieves restrictions and is clearly advantageous to persons affected thereby.

Dated: November 29, 1962.

RAYMOND F. FARRELL,  
Commissioner of  
Immigration and Naturalization.

[F.R. Doc. 62-11950; Filed, Nov. 30, 1962; 8:51 a.m.]

**Title 16—COMMERCIAL PRACTICES**

**Chapter I—Federal Trade Commission**

[Docket C-267]

**PART 13—PROHIBITED TRADE PRACTICES**

**Capital Distributing Co. and John Santangelo**

Subpart—Discriminating in price under section 2, Clayton Act—Payment for

services or facilities for processing or sale under 2(d) : § 13.825 Allowances for services or facilities.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 15 U.S.C. 13) [Cease and desist order, The Capital Distributing Company et al., Derby, Conn., Docket C-267, Nov. 15, 1962]

*In the Matter of The Capital Distributing Company, a Corporation; and John Santangelo, Individually and as an Officer of Said Corporation*

Consent order requiring the national distributor for the publications of some 27 publishers—including magazines, comic books, and paperbacks—to cease violating section 2(d) of the Clayton Act by making payments or allowances to certain operators of chain retail outlets in railroad, airport, and bus terminals and outlets in hotels and office buildings while not making them available on proportionally equal terms to competing drug and grocery chains and other newsstands and, further, making such payments on the basis of individual negotiation and not on proportionally equal terms.

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

*It is ordered,* That respondents The Capital Distributing Company, a corporation, its officers, and John Santangelo, individually and as an officer of said corporation, and respondents' employees, agents and representatives, directly or through any corporate or other device, in connection with the distribution, sale or offering for sale of publications including magazines, comic books and paperback books in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from:

Paying or contracting for the payment of an allowance or anything of value to, or for the benefit of, any customer as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the handling, offering for sale, sale or distribution of publications including magazines, comic books and paperback books distributed, sold or offered for sale by respondents, unless such payment or consideration is affirmatively offered and otherwise made available on proportionally equal terms to all of their other customers competing with such favored customer in the distribution of such publications including magazines, comic books and paperback books.

The word "customer" as used above shall be deemed to mean anyone who purchases from a respondent, acting either as principal or agent, or from a distributor or wholesaler where such transaction with such purchaser is essentially a sale by such respondent, acting either as principal or agent.

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the man-

ner and form in which they have complied with this order.

Issued: November 15, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA,  
Secretary.

[F.R. Doc. 62-11898; Filed, Nov. 30, 1962;  
8:50 a.m.]

[Docket C-266]

### PART 13—PROHIBITED TRADE PRACTICES

Joan Dell, Inc., et al.

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties*; § 13.1053-30 *Flammable Fabrics Act*. Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Joan Dell, Inc., et al., New York, N.Y., Docket C-266, Nov. 15, 1962]

*In the Matter of Joan Dell, Inc., a Corporation, and Saul Field and Nathan Block, Individually and as Officers of Said Corporation.*

Consent order requiring New York City manufacturers to cease violating the Flammable Fabrics Act by selling ladies' dresses made of fabric which was so highly flammable as to be dangerous when worn, and furnishing their customers a false guaranty to the effect that reasonable tests showed the fabrics not to be dangerously flammable.

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

*It is ordered*, That respondents Joan Dell, Inc., a corporation, and its officers, and Saul Field and Nathan Block, individually and as officers of respondent corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. (a) Importing into the United States; or

(b) Manufacturing for sale, selling, offering for sale, introducing, delivering for introduction, transporting or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce;

any article of wearing apparel which, under the provisions of section 4 of the Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

2. Manufacturing for sale, selling, or offering for sale any article of wearing apparel made of fabric, which fabric has been shipped or received in commerce, and which, under section 4 of the Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

3. Furnishing to any person a guaranty with respect to any article of wearing apparel or fabric which respondents, or any of them, have reason to believe may be introduced, sold or transported in commerce, which guaranty represents, contrary to fact, that reasonable and representative tests made under the procedures provided in section 4 of the Flammable Fabrics Act, as amended, and the rules and regulations thereunder, show and will show that the article of wearing apparel, or the fabric used or contained therein, covered by the guaranty, is not, in the form delivered or to be delivered by the guarantor, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals, provided, however, that this prohibition shall not be applicable to a guaranty furnished on the basis of, and in reliance upon, a guaranty to the same effect received by respondents in good faith signed by and containing the name and address of the person by whom the article of wearing apparel or fabric was manufactured or from whom it was received.

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

Issued: November 15, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA,  
Secretary.

[F.R. Doc. 62-11899; Filed, Nov. 30, 1962;  
8:50 a.m.]

[Docket 8281]

### PART 13—PROHIBITED TRADE PRACTICES

Spencer Gifts, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service*; § 13.170-74 *Reducing, non-fattening, low-calorie, etc.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Spencer Gifts, Inc., et al., Atlantic City, N.J., Docket 8281, Nov. 13, 1962]

*In the Matter of Spencer Gifts, Inc., a Corporation, and Max Adler and Harry Adler, Individually and as Officers of Said Corporation*

Order requiring mail order merchandisers in Atlantic City, N.J., to cease advertising falsely that their "Reduce-Eze" girdles would "Slim 4 inches Without Diet", etc.

The order to cease and desist is as follows:

*It is ordered*, That respondent Spencer Gifts, Inc., a corporation, and its officers and respondent Max Adler individually and as an officer of the said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection

with the offering for sale, sale or distribution of devices designated as "Reduce-Eze", "Deduce-Eze" or "Hip-Eze" girdles, or any other device of similar design, nature, purpose or operation, whether sold under the same name or any other name, do forthwith cease and desist from:

(1) Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication that the wearing of a girdle will cause any reduction in body weight.

(2) Disseminating or causing to be disseminated, by any means, any advertisement for the purpose of inducing or which is likely to induce directly or indirectly the purchase of said devices in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in Paragraph 1, hereof.

*It is further ordered*, That the complaint be, and the same is hereby dismissed as to the respondent, Harry Adler.

By "Decision of the Commission", etc., report of compliance was required as follows:

*It is further ordered*, That the respondents, Spencer Gifts, Inc., a corporation, and Max Adler, individually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: November 13, 1962.

By the Commission, Commissioner Higginbotham not participating.

[SEAL] JOSEPH W. SHEA,  
Secretary.

[F.R. Doc. 62-11878; Filed, Nov. 30, 1962;  
8:47 a.m.]

## Title 21—FOOD AND DRUGS

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

#### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

#### PART 121—FOOD ADDITIVES

#### Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements

##### DIETHYLCARBAMAZINE

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by American Cyanamid Company, P.O. Box 400, Princeton, New Jersey, and other relevant material, has concluded that the food additive regulation with respect to diethylcarbazine in dog food, should be amended by deleting the feeding period limitation. Therefore, pursuant to the provisions of the

Federal Food, Drug, and Cosmetic Act (sec. 409(c) (1), 72 Stat. 1786; 21 U.S.C. 348(c) (1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.214 (21 CFR 121.214) is amended by changing the section heading, by deleting paragraph (d) and by changing paragraph (c) to read as follows:

§ 121.214 Diethylcarbamazine.

(c) To assure safe use of the additive, the label and labeling of the additive, any intermediate premix, or final food prepared therefrom, shall bear, in addition to the other information required by the act, the following:

- (1) The name of the additive.
- (2) A statement of the quantity of the additive contained therein.
- (3) The word "medicated," prominently and conspicuously, wherever the term "food" or "premix" is used, and in juxtaposition therewith.
- (4) Adequate directions and warnings for use, including a prominent statement that such medicated dog food is to be used only when infestation by large roundworms (ascarids) is suspected or known to be present.

Any person who will be adversely affected by the foregoing order may at any time 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. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

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

(Sec. 409(c) (1), 72 Stat. 1786; 21 U.S.C. 348 (c) (1))

Dated: November 26, 1962.

JOHN L. HARVEY,  
Deputy Commissioner  
of Food and Drugs.

[F.R. Doc. 62-11886; Filed, Nov. 30, 1962; 8:48 a.m.]

**PART 121—FOOD ADDITIVES**

**Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements**

NIHYDRAZONE (5-NITRO-2-FURALDEHYDE ACETYLHYDRAZONE), CORRECTION

In the Federal Register Document of November 20, 1962 (27 F.R. 11414; F.R.

Doc. 62-11495), the section number "121.1163" should read "121.1103."

(Sec. 409, 72 Stat. 1786; 21 U.S.C. 348)

Dated: November 26, 1962.

JOHN L. HARVEY,  
Deputy Commissioner  
of Food and Drugs.

[F.R. Doc. 62-11887; Filed, Nov. 30, 1962; 8:48 a.m.]

**Title 26—INTERNAL REVENUE**

**Chapter I—Internal Revenue Service, Department of the Treasury**

**SUBCHAPTER A—INCOME TAX**

[T.D. 6621]

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

**Certain Foreign Entities**

On October 30, 1962, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 318 and 6038 of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (27 F.R. 10544). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations is hereby adopted as proposed, subject to the changes as set forth below:

Paragraphs (a), (f) (11), and (k) of § 1.6038-2 are revised.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] BERTRAND M. HARDING,  
Acting Commissioner  
of Internal Revenue.

Approved: November 29, 1962.

STANLEY S. SURREY,  
Assistant Secretary of the  
Treasury.

The Income Tax Regulations (26 CFR Part 1) under sections 318 and 6038 of the Internal Revenue Code of 1954 are hereby amended to reflect the amendments made by section 20 (a) and (d) of the Revenue Act of 1962 (76 Stat. 1059).

PARAGRAPH 1. Section 1.318 is amended by revising section 318(b) (5) and (6), by adding section 318(b) (7), and by revising the historical note. These revised and added provisions read as follows:

**§ 1.318 Statutory provisions; constructive ownership of stock.**

SEC. 318. *Constructive ownership of stock.*

- \*\*\*
- (b) Cross references. \*\*\*
- (5) Section 382(a) (3) (relating to special limitations on net operating loss carryovers);
- (6) Section 856(d) (relating to definition of rents from real property in the case of real estate investment trusts); and
- (7) Section 6038(d) (1) (relating to information with respect to certain foreign corporations).

[Sec. 318 as amended by sec. 10(h), Act of Sept. 14, 1960 (Public Law 86-779, 74 Stat. 1009), and sec. 20(d), Revenue Act 1962 (76 Stat. 1063)]

PAR. 2. Section 1.318-1 is amended by revising subparagraphs (5) and (6) of paragraph (a), by adding a new subparagraph (7) to paragraph (a), by revising subparagraphs (3) and (4) of paragraph (b), and by adding a new subparagraph (5) to paragraph (b). These revised and added provisions read as follows:

**§ 1.318-1 Constructive ownership of stock; introduction.**

- (a) \*\*\*
- (5) Section 382(a) (3) (relating to special limitations on net operating loss carryovers);
- (6) Section 856(d) (relating to definition of rents from real property in the case of real estate investment trusts); and
- (7) Section 6038(d) (1) (relating to information with respect to certain foreign corporations).

\*\*\*

(b) \*\*\*

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

(4) Under section 856(d) (relating to rents received by a real estate investment trust) "10 percent" shall be substituted for "50 percent" in subparagraph (C) of section 318(a) (2) in determining actual and constructive ownership of stock, assets, or net profits; and

(5) Under section 6038(d) (1) (relating to information with respect to certain foreign corporations)—

(i) The second sentence of subparagraphs (A) and (B), and clause (ii) of subparagraph (C), of section 318(a) (2) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person, and

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

PAR. 3. Section 1.6038 and the historical note at the end thereof are amended to read as follows:

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

SEC. 6038. *Information with respect to certain foreign corporations—(a) Requirement—(1) In general.* Every United States person shall furnish, with respect to any foreign corporation which such person controls (within the meaning of subsection (d) (1)), such information as the Secretary or his delegate may prescribe by regulations relating to—

(A) The name, the principal place of business, and the nature of business of such foreign corporation, and the country under whose laws incorporated;

(B) The accumulated profits (as defined in section 902(c)) of such foreign corporation, including the items of income (whether or not included in gross income under chapter 1), deductions (whether or not allowed

in computing taxable income under chapter 1), and any other items taken into account in computing such accumulated profits;

(C) A balance sheet for such foreign corporation listing assets, liabilities, and capital;

(D) Transactions between such foreign corporation and—

(i) Such person,

(ii) Any other corporation which such person controls, and

(iii) Any United States person owning, at the time the transaction takes place, 10 percent or more of the value of any class of stock outstanding of such foreign corporation; and

(E) A description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each United States person who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation.

The Secretary or his delegate may also require the furnishing of any other information which is similar or related in nature to that specified in the preceding sentence.

(2) *Period for which information is to be furnished, etc.* The information required under paragraph (1) shall be furnished for the annual accounting period of the foreign corporation ending with or within the United States person's taxable year. The information so required shall be furnished at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.

(3) *Limitation.* No information shall be required to be furnished under this subsection with respect to any foreign corporation for any annual accounting period unless such information was required to be furnished under regulations in effect on the first day of such annual accounting period.

(b) *Effect of failure to furnish information—(1) In general.* If a United States person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation required under paragraph (1) of subsection (a), then—

(A) In applying section 901 (relating to taxes of foreign countries and possessions of the United States) to such United States person for the taxable year, the amount of taxes (other than taxes reduced under subparagraph (B)) paid or deemed paid (other than those deemed paid under section 904(d)) to any foreign country or possession of the United States for the taxable year shall be reduced by 10 percent, and

(B) In applying sections 902 (relating to foreign tax credit for corporate stockholder in foreign corporation) and 960 (relating to special rules for foreign tax credit) to any such United States person which is a corporation (or to any person who acquires from any other person any portion of the interest of such other person in any such foreign corporation, but only to the extent of such portion) for any taxable year, the amount of taxes paid or deemed paid by each foreign corporation with respect to which such person is required to furnish information during the annual accounting period or periods with respect to which such information is required under paragraph (2) of subsection (a) shall be reduced by 10 percent.

If such failure continues 90 days or more after notice by the Secretary or his delegate to the United States person, then the amount of the reduction under this paragraph shall be 10 percent plus an additional 5 percent for each 3-month period, or fraction thereof, during which such failure to furnish information continues after the expiration of such 90-day period.

(2) *Limitation.* The amount of the reduction under paragraph (1) for each fail-

ure to furnish information with respect to a foreign corporation required under subsection (a) (1) shall not exceed whichever of the following amounts is the greater:

(A) \$10,000, or

(B) The income of the foreign corporation for its annual accounting period with respect to which the failure occurs.

(3) *Special Rules—(A)* No taxes shall be reduced under this subsection more than once for the same failure.

(B) For purposes of this subsection, the time prescribed under paragraph (2) of subsection (a) to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as being not earlier than the last day on which (as shown to the satisfaction of the Secretary or his delegate) reasonable cause existed for failure to furnish such information.

(C) In applying subsections (a) and (b) of section 902, and in applying subsection (a) of section 960, the reduction provided by this subsection shall not apply for purposes of determining the amount of accumulated profits in excess of income, war profits, and excess profits taxes.

(c) *Two or more persons required to furnish information with respect to same foreign corporation.* Where, but for this subsection, two or more United States persons would be required to furnish information under subsection (a) with respect to the same foreign corporation for the same period, the Secretary or his delegate may by regulations provide that such information shall be required only from one person. To the extent practicable, the determination of which person shall furnish the information shall be made on the basis of actual ownership of stock.

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

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

(A) The second sentence of subparagraphs (A) and (B), and clause (ii) of subparagraph (C), of section 318(a)(2) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person, and

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

(2) *Annual accounting period.* The annual accounting period of a foreign corporation is the annual period on the basis of which such corporation regularly computes its income in keeping its books.

(e) *Cross references—(1)* For provisions relating to penalties for violations of this section, see section 7203.

(2) For definition of the term "United States person", see section 7701(a)(30).

[Sec. 6038 as added by sec. 6, Act of Sept. 14, 1960 (Public Law 86-780, 74 Stat. 1014) and amended by sec. 20(a), Rev. Act 1962 (76 Stat. 1059)]

PAR. 4. Paragraph (a) of § 1.6038-1 is amended to read as follows:

§ 1.6038-1 **Information returns required of domestic corporations with respect to annual accounting periods of certain foreign corporations beginning before January 1, 1963.**

(a) *Requirement of return.* For taxable years beginning after December 31, 1960, every domestic corporation shall make a separate annual information return on Form 2952, in duplicate, with respect to each foreign corporation which it controls, as defined in paragraph (b) of this section, and with respect to each foreign subsidiary, as defined in paragraph (c) of this section, for each annual accounting period (described in paragraph (d) of this section) of each such controlled foreign corporation or foreign subsidiary beginning after December 31, 1960, and before January 1, 1963. Such information shall not be required to be furnished, however, with respect to a corporation defined in section 1504(d) of the Code which makes a consolidated return for the taxable year. For annual accounting periods beginning after December 31, 1962, see § 1.6038-2.

PAR. 5. Section 1.6038-2 is added after § 1.6038-1 and reads as follows:

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

(a) *Requirement of return.* Every United States person shall make a separate annual information return on Form 2952, in duplicate, with respect to each annual accounting period (described in paragraph (e) of this section) beginning after December 31, 1962, of each foreign corporation which that person controls, as defined in paragraph (b) of this section, for an uninterrupted period of 30 days or more during such annual accounting period. Such information shall not be required to be furnished, however, with respect to a corporation defined in section 1504(d) of the Code which makes a consolidated return for the taxable year.

(b) *Control.* A person shall be deemed to be in control of a foreign corporation if at any time during that person's taxable year it owns stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or more than 50 percent of the total value of shares of all classes of stock of the foreign corporation. A person in control of a corporation which, in turn, owns more than 50 percent of the combined voting power, or of the value, of all classes of stock of another corporation is also treated as being in control of such other corporation. The provisions of this paragraph may be illustrated by the following example:

*Example.* Corporation A owns 51 percent of the voting stock in Corporation B. Corporation B owns 51 percent of the voting stock in Corporation C. Corporation C in turn owns 51 percent of the voting stock in Corporation D. Corporation D is controlled by Corporation A.

(c) *Attribution rules.* For the purpose of determining control of domestic or foreign corporations the constructive ownership rules of section 318(a) shall apply, except that:

(1) Stock owned by or for a partner or a beneficiary of an estate or trust shall not be considered owned by the partnership, estate, or trust when the effect is to consider a United States person as owning stock owned by a person who is not a United States person;

(2) A corporation will not be considered as owning stock owned by or for a 50 percent or more shareholder when the effect is to consider a United States person as owning stock owned by a person who is not a United States person; and

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

The constructive ownership rules of section 318(a) apply only for purposes of determining control as defined in paragraph (b) of this section.

(d) *United States person.* For the definition of United States person, see section 7701(a) (30) of the Code and the regulations thereunder.

(e) *Period covered by return.* The information required under paragraphs (f) and (g) of this section with respect to a foreign corporation shall be furnished for the annual accounting period of the foreign corporation ending with or within the United States person's taxable year. For purposes of this section, the annual accounting period of a foreign corporation is the annual period on the basis of which that corporation regularly computes its income in keeping its books. The term "annual accounting period" may refer to a period of less than one year, where, for example, the foreign income, war profits, and excess profits taxes are determined on the basis of an accounting period of less than one year as described in section 902(c) (2). If more than one annual accounting period ends with or within the United States person's taxable year, separate annual information returns shall be submitted for each annual accounting period.

(f) *Contents of return.* The return on Form 2952 shall contain the following information with respect to each foreign corporation:

(1) The name, address, and employer identification number, if any, of the corporation;

(2) The principal place of business of the corporation;

(3) The date of incorporation and the country under whose laws incorporated;

(4) The name and address of the foreign corporation's statutory or resident agent in the country of incorporation;

(5) The name, address, and identifying number of any branch office or agent of the foreign corporation located in the United States;

(6) The name and address of the person (or persons) having custody of the books of account and records of the foreign corporation, and the location of such books and records if different from such address;

(7) The nature of the corporation's business and the principal places where conducted;

(8) As regards the outstanding stock of the corporation—

(i) A description of each class of the corporation's stock, and

(ii) The number of shares of each class outstanding at the beginning and end of the annual accounting period;

(9) A list showing the name, address, and identifying number of, and the number of shares of each class of the corporation's stock held by, each United States person who is a shareholder owning at any time during the annual accounting period 5 percent or more in value of any class of the corporation's outstanding stock;

(10) For the annual accounting period, the amount of the corporation's:

(i) Current earnings and profits;

(ii) Foreign income, war profits, and excess profits taxes paid or accrued;

(iii) Distributions out of current earnings and profits for the period;

(iv) Distributions other than those described in subdivision (iii) of this subparagraph and the source thereof;

(11) A summary showing the total amount of each of the following types of transactions of the corporation, which took place during the annual accounting period, with the person required to file this return, any other corporation controlled by that person, or any United States person owning at the time of the transaction 10 percent or more in value of any class of stock outstanding of the foreign corporation, or of any corporation controlling that foreign corporation:

(i) Sales and purchases of stock in trade, except in the ordinary course of business where neither party to the transaction is a United States person;

(ii) Purchases of tangible property other than stock in trade, except where neither party to the transaction is a United States person;

(iii) Sales and purchases of patents, inventions, models, or designs (whether or not patented), copyrights, trademarks, secret formulas or processes, or any other similar property rights;

(iv) Compensation paid and compensation received for the rendition of technical, managerial, engineering, construction, scientific, or like services;

(v) Commissions paid and commissions received;

(vi) Rents and royalties paid and rents and royalties received;

(vii) Amounts loaned and amounts borrowed (other than open accounts which arise and are collected in the ordinary course of business);

(viii) Dividends paid and dividends received;

(ix) Interest paid and interest received;

(x) Premiums received for insurance or reinsurance.

If the United States person is a bank, as defined in section 581, or is controlled within the meaning of section 368(c) by a bank, the term "transactions" shall not, as to a corporation with respect to which a return is filed, include banking transactions entered into on behalf of cus-

tomers; in any event, however, deposits in accounts between a foreign corporation, controlled (within the meaning of paragraph (b) of this section) by a United States person, and a person described in this subparagraph and withdrawals from such accounts shall be summarized by reporting end-of-month balances.

(g) *Financial statements.* The following information with respect to the foreign corporation shall be attached to and filed as part of the return required by this section:

(1) A statement of the corporation's profit and loss for the annual accounting period;

(2) A balance sheet as of the end of the annual accounting period of the corporation showing—

(i) The corporation's assets,

(ii) The corporation's liabilities,

(iii) The corporation's net worth;

(3) An analysis of changes in the corporation's surplus accounts during the annual accounting period including both opening and closing balances.

The statements listed in subparagraphs (1), (2), and (3) of this paragraph shall be prepared in conformity with generally accepted accounting principles, and in such form and detail as is customary for the corporation's accounting records.

(h) *Method of reporting.* All amounts furnished under paragraphs (f) and (g) of this section shall be expressed in United States currency with a statement of the exchange rates used. All statements submitted on or with the return required under this section shall be rendered in the English language.

(i) *Time and place for filing return.* Returns on Form 2952 required under paragraph (a) of this section shall be filed with the United States person's income tax return on or before the date required by law for the filing of that person's income tax return.

(j) *Extension of time for filing.* District directors are authorized to grant reasonable extensions of time for filing returns on Form 2952 in accordance with the applicable provisions of § 1.6081-1 of this chapter. An application for an extension of time for filing a return of income shall also be considered as an application for an extension of time for filing returns on Form 2952.

(k) *Two or more persons required to submit the same information—*(1) *Return jointly made.* If two or more persons are required to furnish information with respect to the same foreign corporation for the same period, such persons may, in lieu of making separate returns, jointly make one return. Such joint return shall be filed with the income tax return of any one of the persons making such joint return.

(2) *Persons exempted from furnishing information.* Any person required to furnish information under this section with respect to a foreign corporation need not furnish that information provided all of the following conditions are met:

(i) Such person does not directly own an interest in the foreign corporation;

(ii) Such person is required to furnish the information solely by reason of at-

tribution of stock ownership from a United States person under paragraph (c) of this section;

(iii) The person from whom the stock ownership is attributed furnishes all of the information required under this section of the person to whom the stock ownership is attributed.

The rule of this subparagraph may be illustrated by the following examples:

*Example (1).* A, a United States person (as defined in section 7701(a)(30)), owns 100 percent of the stock of M, a domestic corporation. A also owns 100 percent of the stock of N, a foreign corporation. A, in filing the information return required by this section with respect to N Corporation, in fact furnishes all of the information required of M Corporation with respect to N Corporation. M Corporation need not file the information.

*Example (2).* X, a domestic corporation, owns 100 percent of the stock of Y, a domestic corporation. Y Corporation owns 100 percent of the stock of Z, a foreign corporation. X Corporation is not excused by this subparagraph from filing information with respect to Z Corporation because X Corporation is deemed to control Z Corporation under the provisions of paragraph (b) of this section without recourse to the attribution rules in paragraph (c).

(3) *Statement required.* Any United States person required to furnish information under this section with his return who does not do so by reason of the provisions of subparagraph (1) or (2) of this paragraph shall file a statement with his return indicating that such liability has been (or, in the case of a joint return made under subparagraph (1) of this paragraph, will be) satisfied and identifying the return with which the information was or will be filed and the place of filing.

(1) *Failure to furnish information—*  
(1) *Effect on foreign tax credit.* (i) Failure of a United States person to furnish, in accordance with the provisions of this section, any return or any information in any return, required to be filed for a taxable year under authority of section 6038 on or before the date prescribed in paragraph (i) of this section (determined with regard to any extension of time for such filing) shall affect the application of section 901 as provided in subparagraph (2) of this paragraph and shall affect the application of sections 902 and 960 as provided in subparagraph (3) of this paragraph. Such failure shall affect the application of sections 902 and 960 to any such United States person which is a corporation or to any person who acquires from any other person any portion (but only to the extent of such portion) of the interest of such other person in any such foreign corporation.

(ii) Where a United States person fails to file a return, or having filed the return required by this section except for an omission of, or error with respect to, some of the information referred to in paragraphs (f) and (g) of this section, establishes to the satisfaction of the Commissioner that such failure, omission or error was inadvertent or for reasonable cause and that such person has substantially complied with this sec-

tion, such omission or error shall not constitute a failure under this section.

(2) *Application of section 901.* In the application of section 901 to a United States person referred to in subdivision (i) of subparagraph (1) of this paragraph, the amount of taxes paid or deemed paid by such person for any taxable year, with or within which the annual accounting period of a foreign corporation for which such person failed to furnish information required under this section ended, shall be reduced by 10 percent. However, no tax reduced under subparagraph (3) of this paragraph or deemed paid under section 904 (d) shall be reduced under the provisions of this subparagraph.

(3) *Application of sections 902 and 960.* In the application of sections 902 and 960 to a United States person referred to in subdivision (i) of subparagraph (1) of this paragraph for any taxable year, the amount of taxes paid or deemed paid by each foreign corporation for the accounting period or periods for which such person was required for the taxable year of the failure to furnish information under this section shall be reduced by 10 percent. The 10-percent reduction is not limited to the taxes paid or deemed paid by the foreign corporation with respect to which there is a failure to file information but shall apply to the taxes paid or deemed paid by all foreign corporations controlled by that person. In applying subsections (a) and (b) of section 902, and in applying subsection (a) of section 960, the reduction provided by this paragraph shall not apply for purposes of determining the amount of accumulated profits in excess of income, war profits, and excess profits taxes.

(4) *Reduction for continued failure.*  
(i) If the failure referred to in subdivision (i) of subparagraph (1) of this paragraph continues for 90 days or more after date of written notice by the district director to such United States person, then the amount of the reduction referred to in subparagraphs (2) and (3) of this paragraph shall be 10 percent plus an additional 5 percent for each 3-month period, or fraction thereof, during which such failure continues after the expiration of such 90-day period.

(ii) No taxes shall be reduced under this paragraph more than once for the same failure. Taxes paid by a foreign corporation when once reduced for a failure shall not be reduced again for the same failure in their status as taxes deemed paid by a corporate shareholder. Where a failure continues, each additional periodic 5-percent reduction, referred to in subdivision (i) of this subparagraph, shall be considered as part of the one reduction.

(iii) The effects of section 6038(b) and of this paragraph on the computation of foreign tax credit under section 902(a) of the Code and, where applicable, on the computation of the amount equal to taxes deemed paid which is includible in gross income under section 78 of the Code, may be illustrated by the following examples:

*Example (1).* M, a domestic corporation, owns 100 percent of the stock of N, a for-

foreign corporation which is a less developed country corporation within the meaning of section 902(d) of the Code. Both M and N use the calendar year as a taxable year and all of the following events occur after January 1, 1965. The dividend from N Corporation is the only dividend from a foreign corporation received by M Corporation during the taxable year.

(a) Gains, profits, and income of N Corporation.....	\$100,000
(b) Foreign tax paid with respect to such gains, profits, and income by N Corporation....	40,000
(c) Reduction of foreign tax paid by N Corporation resulting from M Corporation's failure to file information with respect to N Corporation as required under section 6038 (a): 90-day failure to file, 10-percent reduction; additional 3 months failure to file, 5-percent reduction; total reduction, 15 percent. (\$40,000 times 15 percent)....	6,000
(d) Foreign tax paid by N Corporation after section 6038(b) (1)(B) reduction.....	34,000
(e) Dividend paid by N Corporation to M Corporation.....	45,000
(f) Accumulated profits of N Corporation as defined in section 902(c)(1)(B) (determined without regard to the section 6038(a)(1)(B) reduction).....	60,000
(g) M Corporation is deemed to have paid the same proportion of foreign taxes paid (reduced as provided under section 6038(b)) on or with respect to the accumulated profits (determined without regard to the reduction provided under section 6038(b)) as the amount of dividends bears to the amount of such accumulated profits.....	\$15,300
$\frac{60,000}{100,000} \times \frac{45,000}{60,000} \times 34,000$	

The above example illustrates that the reduction in foreign taxes paid by the foreign corporation provided under section 6038(b) and this paragraph are not taken into account in computing accumulated profits for purposes of determining the amount of foreign taxes deemed paid with respect to a particular dividend.

*Example (2).* The facts are the same as in example (1) except that N Corporation is not a less developed country corporation within the meaning of section 902(d) of the Code.

(a) Gains, profits, and income of N Corporation.....	\$100,000
(b) Foreign tax paid by N Corporation with respect to such gains, profits, and income....	40,000
(c) Reduction of foreign tax paid by N Corporation resulting from M Corporation's failure to file information with respect to N Corporation as required under section 6038 (a): 90-day failure to file, 10-percent reduction; additional 3 months failure to file, 5-percent reduction; total reduction, 15 percent. (\$40,000 times 15 percent)....	6,000
(d) Foreign tax paid by N Corporation after section 6038 (b) (1)(B) reduction.....	34,000
(e) Dividend paid by N Corporation to M Corporation.....	45,000

(f) Accumulated profits of N Corporation as defined in section 902(c)(1)(A) (determined without regard to the section 6038(b)(1)(B) reduction) .....	\$100,000
(g) Accumulated profits of N Corporation as described in section 902(a)(1) (determined without regard to the section 6038(b)(1)(B) reduction) ..	60,000
(h) M Corporation is deemed to have paid the same proportion of foreign taxes paid (reduced as provided under section 6038(b)) with respect to the accumulated profits (determined without regard to the reduction provided under section 6038(b)) as the amount of the dividend (determined without regard to section 78) bears to such amount of accumulated profits .....	25,500
$\frac{45,000}{60,000} \times 34,000$	

M Corporation must include \$25,500 in gross income as a dividend under the provisions of section 78 of the Code. The above example illustrates that the reductions in foreign taxes paid by the foreign corporation provided under section 6038(b) are taken into account in determining the amount included in gross income of the domestic corporation as foreign taxes deemed paid under section 78 of the Code but such reductions are not taken into account in computing accumulated profits for purposes of determining the amount of foreign taxes deemed paid with respect to a particular dividend.

(5) *Limitation on reduction.* The amount of the reduction under this paragraph for each failure to furnish information with respect to a foreign corporation as required under this section shall not exceed the greater of:

(i) \$10,000, or

(ii) The income of the foreign corporation for its annual accounting period with respect to which the failure occurs.

For purposes of this section if a person is required to furnish information with respect to more than one foreign corporation, controlled (within the meaning of paragraph (b) of this section) by that person, each failure to submit information for each such corporation constitutes a separate failure.

(6) *Reasonable cause.* For purposes of subsection (b) of section 6038 and this section, the time prescribed for furnishing information under this paragraph, and the beginning of the 90-day period after notice by the district director, shall be treated as being not earlier than the last day on which (as shown to the satisfaction of the district director) reasonable cause existed for failure to furnish such information.

(7) *Statement required.* A person, who wishes to avoid the reductions provided in subparagraphs (2), (3), and (4) of this paragraph for failure to furnish information in accordance with this section, must make an affirmative showing under subparagraph (1)(ii) or (6) of this paragraph of all facts alleged as a reasonable cause for such failure in the form of a written statement containing a declaration that it is made under the penalties of perjury.

(8) *Penalties.* The information required by section 6038 of the Code must be furnished even though there are no foreign taxes which would be reduced under the provisions of this section. For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207 of the Code.

[F.R. Doc. 62-11951; Filed, Nov. 30, 1962; 8:51 a.m.]

[T.D. 6623]

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

**PART 301—PROCEDURE AND ADMINISTRATION**

**Returns as to Organization or Reorganization of Foreign Corporations and as to Acquisitions of Their Stock**

On October 30, 1962, notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 10547) regarding the amendment of the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) under section 6046 of the Internal Revenue Code of 1954 as amended by section 20 (b) of the Revenue Act of 1962 (Public Law 87-834, 76 Stat. 1061), and section 6679 of such Code as added by section 20(c) of such Act (76 Stat. 1062). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as proposed are hereby adopted subject to the following changes:

PARAGRAPH 1. Section 1.6046-1 as set forth in paragraph 4 to the notice of proposed rule making is revised.

PAR. 2. Section 301.6679-1 as set forth in paragraph 5 to the notice of proposed rule making is changed by revising subparagraph (3) of paragraph (a).

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

[SEAL] **BERTRAND M. HARDING,**  
*Acting Commissioner of Internal Revenue.*

Approved: November 29, 1962.

**STANLEY S. SURREY,**  
*Assistant Secretary of the Treasury.*

In order to conform the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) to the amendments made to the Internal Revenue Code of 1954 by section 20 (b) and (c) of the Revenue Act of 1962 (76 Stat. 1061, 1062), such regulations are amended as follows:

PARAGRAPH 1. Section 1.6046 is amended to read as follows:

**§ 1.6046 Statutory provisions; returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.**

SEC. 6046. *Returns as to organization or reorganization of foreign corporations and*

*as to acquisitions of their stock—(a) Requirement of return.* A return complying with the requirements of subsection (b) shall be made by—

(1) Each United States citizen or resident who is on January 1, 1963, an officer or director of a foreign corporation, 5 percent or more in value of the stock of which is owned by a United States person (as defined in section 7701(a)(30)), or who becomes such an officer or director at any time after such date,

(2) Each United States person who on January 1, 1963, owns 5 percent or more in value of the stock of a foreign corporation, or who, at any time after such date—

(A) Acquires stock which, when added to any stock owned on January 1, 1963, has a value equal to 5 percent or more of the value of the stock of a foreign corporation, or

(B) Acquires an additional 5 percent or more in value of the stock of a foreign corporation, and

(3) Each person who at any time after January 1, 1963, becomes a United States person while owning 5 percent or more in value of the stock of a foreign corporation.

(b) *Form and contents of returns.* The returns required by subsection (a) shall be in such form and shall set forth, in respect of the foreign corporation, such information as the Secretary or his delegate prescribes by forms or regulations as necessary for carrying out the provisions of the income tax laws, except that in the case of persons described only in subsection (a)(1) the information required shall be limited to the names and addresses of persons described in subsection (a)(2).

(c) *Ownership of stock.* For purposes of subsection (a), stock owned directly or indirectly by a person (including, in the case of an individual, stock owned by members of his family) shall be taken into account. For purposes of the preceding sentence, the family of an individual shall be considered as including only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(d) *Time for filing.* Any return required by subsection (a), shall be filed on or before the 90th day after the day on which, under any provision of subsection (a), the United States citizen, resident, or person becomes liable to file such return.

(e) *Limitation—(1) General rule.* Except as provided in paragraph (2), no information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a).

(2) *Exception.* In the case of liability to file a return under subsection (a) arising on or after January 1, 1963, and before June 1, 1963—

(A) No information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations in effect on or before March 1, 1963, and

(B) If the date on which such regulations become effective is later than the day on which such liability arose, any return required by subsection (a) shall (in lieu of the time prescribed by subsection (d)) be filed on or before the 90th day after such date.

(f) *Cross reference.* For provisions relating to penalties for violations of this section, see sections 6679 and 7203.

[Sec. 6046 as amended by sec. 7(a), Act of Sept. 14, 1960 (Public Law 86-780, 74 Stat. 1016); sec. 20(b) Revenue Act 1962 (76 Stat. 1061)]

PAR. 2. Section 1.6046-1 is redesignated § 1.6046-3 and is amended by revising the heading and paragraphs (a), (c), and (e) thereof to read as follows:

**§ 1.6046-3 Returns as to formation or reorganization of foreign corporations prior to September 15, 1960.**

(a) *Requirement of returns.* Every attorney, accountant, fiduciary, bank, trust company, financial institution, or other person, who, on or before September 14, 1960, aids, assists, counsels, or advises in, or with respect to, the formation, organization, or reorganization of any foreign corporation shall file an information return on Form 959 (as in use prior to the October 1960 revision). The return must be filed in every such case regardless of—

(c) *Information required to be shown on return.* The return required by section 6046, prior to its amendment by section 7(a) of the Act of September 14, 1960, and this section shall set forth the following information to the extent the information is within the possession or knowledge, or under the control, of the person filing the return:

(e) *Time and place for filing return—*  
(1) *Time for filing.* Returns required by section 6046, prior to its amendment by section 7(a) of the Act of September 14, 1960, and this section shall be filed within 30 days after the first performance of any of the functions referred to in paragraph (a) of this section. If in a particular case, the aid, assistance, counsel, or advice given by any person extends over a period of more than one day, such person, to avoid multiple filing of returns, shall file a return within 30 days after either of the following events:

PAR. 3. Immediately preceding § 1.6046-3 as redesignated there is inserted the following new section:

**§ 1.6046-2 Returns as to foreign corporations which are created or organized, or reorganized, on or after September 15, 1960, and before January 1, 1963.**

(a) *Requirement of returns.* In the case of any foreign corporation which is created or organized, or reorganized, on or after September 15, 1960, and before January 1, 1963—

(1) Each United States citizen or resident who was an officer or director of such corporation at any time within 60 days after such creation or organization, or reorganization, and

(2) Each United States shareholder of such corporation by or for whom, at any time within 60 days after such creation or organization, or reorganization, 5 percent or more in value of such corporation's then outstanding stock was owned directly or indirectly (including, in the case of an individual stock owned by members of his family),

shall file a return on Form 959 (Rev. Oct. 1960), United States Information Return With Respect to the Creation or Organization, or Reorganization, of a Foreign Corporation.

(b) *Information required to be shown on return.* The return required by section 6046, prior to its amendment by section 20(b) of the Revenue Act of 1962, and this section shall set forth the following information:

(1) The name and address of the person (or persons) filing the return, and an indication that he is a United States shareholder, officer, or director;

(2) The name and business address of the foreign corporation;

(3) The name of the country under the laws of which the foreign corporation was created or organized, or reorganized;

(4) The name and address of the foreign corporation's statutory or resident agent in the country of incorporation;

(5) The date of the foreign corporation's creation or organization, or reorganization;

(6) A statement of the manner in which the creation or organization, or reorganization, of the foreign corporation was effected;

(7) A complete statement of the reasons for, and the purposes sought to be accomplished by, the creation or organization, or reorganization, of the foreign corporation;

(8) A statement showing the classes and kinds of assets transferred to the foreign corporation in connection with its creation or organization, or reorganization, including a list completely describing each asset or group of assets, its value, date of transfer, and the name and address of person (or persons) owning such asset or group immediately prior to the transfer;

(9) A statement showing the assets transferred and the securities issued by the foreign corporation in its creation or organization or reorganization, as well as the name and address of each person to whom such a transfer or issuance was made;

(10) A statement specifying the amount and type of any indebtedness due from the foreign corporation to each of its shareholders and the name of each such shareholder;

(11) The names and addresses of the shareholders of the foreign corporation at the time of its creation or organization or reorganization, and the classes of stock and number of shares held by each;

(12) The names and addresses of subscribers to the stock of the foreign corporation, and the number of shares subscribed to by each; and

(13) The name and address of the person (or persons) having custody of the books of account and records of the foreign corporation, and the location of such books and records if different from such address.

(c) *Time and place for filing return.* The return required by section 6046, prior to its amendment by section 20(b) of the Revenue Act of 1962, and this section shall be filed with the Director of International Operations, Internal Revenue Service, Washington 25, D.C., on or before the 90th day after such foreign corporation is created or organized, or reorganized.

PAR. 4. Immediately preceding § 1.6046-2 there is inserted the following new section:

**§ 1.6046-1 Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock, on or after January 1, 1963.**

(a) *Officers or directors—*(1) *When liability arises on January 1, 1963.* Each United States citizen or resident who is on January 1, 1963, an officer or director of a foreign corporation shall make a return on Form 959 (Rev. Jan. 1963) showing the name, address, and identifying number of each United States person (as defined in section 7701(a)(30)) who, on January 1, 1963, owns 5 percent or more in value of the outstanding stock of such foreign corporation.

(2) *When liability arises after January 1, 1963—*(i) *Requirement of return.* Each United States citizen or resident who is at any time after January 1, 1963, an officer or director of a foreign corporation shall make a return on Form 959 (Rev. Jan. 1963) setting forth the information described in subdivision (ii) of this subparagraph with respect to each United States person (as defined in section 7701(a)(30)) who, during the time such citizen or resident is such an officer or director—

(a) Acquires (whether in one or more transactions) outstanding stock of such corporation which has, or which when added to any such stock then owned by him (excluding any stock owned by him on January 1, 1963, if on that date he owned 5 percent or more in value of such stock) has, a value equal to 5 percent or more in value of the outstanding stock of such foreign corporation, or

(b) Acquires (whether in one or more transactions) an additional 5 percent or more in value of the outstanding stock of such foreign corporation.

(ii) *Information required to be shown on return.* The return required under subdivision (i) of this subparagraph shall contain the following information:

(a) Name, address, and identifying number of each shareholder with respect to whom the return is filed;

(b) A statement showing that the shareholder is either described in subdivision (i)(a) or (i)(b) of this subparagraph; and

(c) The date on which the shareholder became a person described in subdivision (i)(a) or (i)(b) of this subparagraph.

(3) *Application of rules.* The provisions of this paragraph may be illustrated by the following examples:

*Example (1).* A, a United States citizen, is, on January 1, 1963, a director of M, a foreign corporation. X, on January 1, 1963, is a United States person owning 5 percent in value of the outstanding stock of M Corporation. A must file a return under the provisions of subparagraph (1) of this paragraph.

*Example (2).* The facts are the same as in Example (1) except that X owns only 2 percent in value of the outstanding stock of M Corporation on January 1, 1963. On July 1, 1963, X acquires 2 percent in value of the outstanding stock of M Corporation and on September 1, 1963, he acquires an additional 2 percent in value of such stock. The July

1, 1963, transaction does not give rise to liability to file a return; however, A must file a return as a result of the September 1, 1963, transaction because X's holdings now exceed 5 percent.

**Example (3).** The facts are the same as in Example (2) and, on September 15, 1963, X acquires an additional 4 percent in value of the outstanding stock of M Corporation (X's total holdings are now 10 percent). On November 1, 1963, X acquires an additional 2 percent in value of the outstanding stock of M Corporation. The September 15, 1963, transaction does not give rise to liability to file a return since X has not acquired 5 percent in value of the outstanding stock of M Corporation since A last became liable to file a return. However, A must file a return as a result of the November 1, 1963, transaction because X has now acquired an additional 5 percent in value of the outstanding stock of M Corporation.

**Example (4).** The facts are the same as in Examples (2) and (3) and, in addition, B, a United States citizen, becomes an officer of M Corporation on October 1, 1963. B is not required to file a return either as a result of the facts set forth in Example (2) or as a result of the September 15, 1963, transaction described in Example (3). However, B is required to file a return as a result of the November 1, 1963, transaction described in Example (3) because X has acquired an additional 5 percent in value of the outstanding stock of M Corporation while B is an officer or director.

(b) *Returns required of United States persons when liability to file arises on January 1, 1963.* Each United States person, as defined in section 7701(a) (30), who, on January 1, 1963, owns 5 percent or more in value of the outstanding stock of a foreign corporation, shall make a return on Form 959 (Rev. Jan. 1963) with respect to such foreign corporation setting forth the following information:

(1) The name, address, and identifying number of the shareholder (or shareholders) filing the return, and the internal revenue district in which such shareholder filed his most recent United States income tax return;

(2) The name, business address, and employer identification number, if any, of the foreign corporation and the name of the country under the laws of which it is incorporated;

(3) The date of organization and, if any, of each reorganization of the foreign corporation if such reorganization occurred on or after January 1, 1960, while the shareholder owned 5 percent or more in value of the outstanding stock of such corporation;

(4) The name and address of the foreign corporation's statutory or resident agent in the country of incorporation;

(5) The name, address, and identifying number of any branch office or agent of the foreign corporation located in the United States;

(6) If the foreign corporation has filed a United States income tax return, or participated in the filing of a consolidated return, for any of its last three calendar or fiscal years immediately preceding January 1, 1963, state each year for which a return was filed (including, in the case of a consolidated return, the name of the corporation filing such return), the type of form used, the internal revenue office to which

it was sent, and the amount of tax, if any, paid;

(7) The name and address of the person (or persons) having custody of the books of account and records of the foreign corporation, and the location of such books and records if different from such address;

(8) The names, addresses, and identifying numbers of all United States persons who are the principal officers (for example, president, vice president, secretary, treasurer, and comptroller) or members of the board of director of the foreign corporation as of January 1, 1963;

(9) A complete description of the principal business activities in which the foreign corporation is actually engaged and, if the foreign corporation is a member of a group constituting a chain of ownership with respect to each unit of which the shareholder owns 5 percent or more in value of the outstanding stock, a chart showing the foreign corporation's position in the chain of ownership and the percentages of ownership;

(10) A copy of the following statements prepared in accordance with generally accepted accounting principles and in such form and detail as is customary for the corporation's accounting records:

(i) The corporation's profit and loss statement for the most recent complete annual accounting period; and

(ii) The corporation's balance sheet as of the end of the most recent complete annual accounting period;

(11) A statement showing as of January 1, 1963, the amount and type of any indebtedness of the foreign corporation—

(i) To any United States person owning 5 percent or more in value of its stock, or

(ii) To any other foreign corporation owning 5 percent or more in value of the outstanding stock of the foreign corporation with respect to which the return is filed provided that the shareholder filing the return owns 5 percent or more in value of the outstanding stock of such other foreign corporation,

together with the name, address, and identifying number, if any, of each such shareholder or entity;

(12) A statement, as of January 1, 1963, showing the name, address, and identifying number, if any, of each person who is, on January 1, 1963, a subscriber to the stock of the foreign corporation, and the number of shares subscribed to by each;

(13) A statement showing the number of shares of each class of stock of the foreign corporation owned by each shareholder filing the return and—

(i) If such stock was acquired after December 31, 1953, the dates of acquisition, the amounts paid or value given therefor, the method of acquisition, i.e., by original issue, purchase on open market, direct purchase, gift, inheritance, etc., and from whom acquired; or

(ii) If such stock was acquired before January 1, 1954, a statement that such stock was acquired before such date, and the value at which such stock is carried on the books of such shareholder;

(14) A statement showing as of January 1, 1963, the name, address, and identifying number of each United States person who owns 5 percent or more in value of the outstanding stock of the foreign corporation, the classes of stock held, the number of shares of each class held, including the name, address, and identifying number, if any, of each actual owner if such person is different from the shareholder of record and a statement of the nature and amount of the interests of each such actual owner; and

(15) The total number of shares of each class of outstanding stock of the foreign corporation (or other data indicating the shareholder's percentage of ownership).

(c) *Returns required of United States persons when liability to file arises after January 1, 1963—*(1) *United States persons required to file.* A return on Form 959 (Rev. Jan. 1963), relating to the organization or reorganization of a foreign corporation and to the acquisition of its stock, containing the information required by subparagraph (3) of this paragraph, shall be made by each United States person, as defined in section 7701 (a) (30), when at any time after January 1, 1963—

(i) Such person acquires (whether in one or more transactions) outstanding stock of such foreign corporation which has, or which when added to any such stock then owned by him (excluding any stock owned by him on January 1, 1963, if on that date he owned 5 percent or more in value of such stock) has, a value equal to 5 percent or more in value of the outstanding stock of such foreign corporation, or

(ii) Such person, having already acquired the interest referred to in paragraph (b) of this section or in subdivision (i) of this subparagraph—

(a) Acquires (whether in one or more transactions) an additional 5 percent or more in value of the outstanding stock of such foreign corporation,

(b) Owns 5 percent or more in value of the outstanding stock of such foreign corporation when such foreign corporation is reorganized (as defined in paragraph (f)), or

(c) Disposes of sufficient stock in such foreign corporation to reduce his interest to less than 5 percent in value of the outstanding stock of such foreign corporation.

The provisions of this subparagraph may be illustrated by the following examples:

**Example (1).** On January 15, 1963, A, a United States person, acquires 5 percent in value of the outstanding stock of M, a foreign corporation. A must file a return under the provisions of this subparagraph.

**Example (2).** On January 1, 1963, B, a United States person, owns 2 percent in value of the outstanding stock of M, a foreign corporation. B is not required to file a return under the provisions of this section because he does not own 5 percent or more in value of the outstanding stock of M Corporation. On February 1, 1963, B acquires an additional 3 percent in value of the outstanding stock of M Corporation. B must file a return under the provisions of this subparagraph.

*Example (3).* On January 1, 1963, C, a United States person, owns 6 percent in value of the outstanding stock of M, a foreign corporation. C must file a return under the provisions of paragraph (b) of this section. On February 1, 1963, C acquires an additional 2 percent in value of the outstanding stock of M Corporation in a transaction not involving a reorganization. C is not required to file a return under the provisions of this subparagraph.

*Example (4).* The facts are the same as in Example (3) except that, in addition, on April 1, 1963, C acquires 2 percent in value of the outstanding stock of M Corporation in a transaction not involving a reorganization. (C's total holdings are now 10 percent.) C is not required to file a return under the provisions of this subparagraph because he has not acquired 5 percent or more in value of the outstanding stock of M Corporation since he last became liable to file a return. On May 1, 1963, C acquires 1 percent in value of the outstanding stock of M Corporation. C must file a return under the provisions of this subparagraph.

*Example (5).* On June 1, 1963, D, a United States person, owns 12 percent in value of the outstanding stock of M, a foreign corporation. Also, on June 1, 1963, M Corporation is reorganized and, as a result of such reorganization, D owns only 6 percent of the outstanding stock of such foreign corporation. D must file a return under the provisions of this subparagraph.

*Example (6).* The facts are the same as in Example (5) except that, in addition, on November 1, 1970, D donates 2 percent of the outstanding stock of M Corporation to a charity. Since D has disposed of sufficient stock to reduce his interest in M Corporation to less than 5 percent in value of the outstanding stock of such corporation, D must file a return under the provisions of this subparagraph.

(2) *Shareholders who become United States persons.* A return on Form 959 (Rev. Jan. 1963), relating to the organization or reorganization of a foreign corporation and to the acquisition of its stock, containing the information required by subparagraph (3) of this paragraph, shall also be made by each person who at any time after January 1, 1963, becomes a United States person while owning 5 percent or more in value of the outstanding stock of such foreign corporation.

(3) *Information required to be shown on return—(i) In general.* The return on Form 959 (Rev. Jan. 1963), required to be filed by persons described in subparagraphs (1) and (2) of this paragraph, shall set forth the same information as is required by the provisions of paragraph (b) of this section except that where such provisions require information with respect to January 1, 1963, such information shall be furnished with respect to the date on which liability arises to file the return required under this paragraph.

(ii) *Additional information.* In addition to the information required under subdivision (i) of this subparagraph, the following information shall also be furnished in the return required under this paragraph:

(a) The date on or after January 1, 1963, if any, on which such shareholder (or shareholders) last filed a return under this section with respect to the corporation;

(b) If a return is filed by reason of becoming a United States person, the date the shareholder became a United States person;

(c) If a return is filed by reason of the disposition of stock, the date and method of such disposition and the person to whom such disposition was made; and

(d) If a return is filed by reason of the organization or reorganization of the foreign corporation on or after January 1, 1963, the following information:

(1) A statement showing a detailed list of the classes and kinds of assets transferred to the foreign corporation including a description of the assets (such as a list of patents, copyrights, stock, securities, etc.), the fair market value of each asset transferred (and, if such asset is transferred by a United States person, its adjusted basis), the date of transfer, the name, address, and identifying number, if any, of the owner immediately prior to the transfer, and the consideration paid by the foreign corporation for such transfer;

(2) A statement showing the assets transferred and the notes or securities issued by the foreign corporation, the name, address, and identifying number, if any, of each person to whom such transfer or issue was made, and the consideration paid to the foreign corporation for such transfer or issue; and

(3) An analysis of the changes in the corporation's surplus accounts occurring on or after January 1, 1963.

(iii) *Exclusion of information previously furnished.* In any case where any identical item of information required to be filed under this paragraph by a shareholder with respect to a foreign corporation has previously been furnished by such shareholder in any return made in accordance with the provisions of this section, such shareholder may satisfy the requirements of this paragraph by filing Form 959 (Rev. Jan. 1963), identifying such item of information, the date furnished, and stating that it is unchanged.

(d) *Associations, etc.* Returns are required to be filed in accordance with the provisions of this section with respect to any foreign association, foreign joint-stock company, or foreign insurance company, etc., which would be considered to be a corporation under § 301.7701-2 of this chapter (Regulations on Procedure and Administration). Persons who would qualify by the nature of their functions and ownership in such associations, etc., as officers, directors, or shareholders thereof will be treated as such for purposes of this section without regard to their designations under local law.

(e) *Special provisions—(1) Return jointly made.* Any two or more persons required under paragraph (a) of this section to make a return with respect to one or more shareholders of the same corporation, or under paragraph (b) or (c) of this section to make a return with respect to the same corporation, may in lieu of making several returns, jointly make one return.

(2) *Separate return for each corporation.* When returns are required with respect to more than one foreign corpo-

ration, a separate return must be made for each corporation.

(3) *Use of power of attorney by officers or directors—(i) In general.* Any two or more persons required under paragraph (a) of this section to make a return with respect to one or more shareholders of the same corporation may, by means of one or more duly executed powers of attorney, constitute one of their number as attorney in fact for the purpose of making such returns or for the purpose of making a joint return under subparagraph (1) of this paragraph.

(ii) *Nature of power of attorney.* The power of attorney referred to in subdivision (i) of this subparagraph shall be limited to the making of returns required under paragraph (a) of this section and shall be limited to a single calendar year with respect to which such returns are required.

(iii) *Manner of execution of power of attorney.* The use of technical language in the preparation of the power of attorney referred to in subdivision (i) of this subparagraph is not necessary. Such power of attorney shall be signed by the individual United States citizen or resident required to file a return or returns under paragraph (a) of this section. Such power of attorney must be acknowledged before a notary public or, in lieu thereof, witnessed by two disinterested persons. The notarial seal must be affixed unless such seal is not required under the laws of the state or country wherein such power of attorney is executed.

(iv) *Manner of execution of return under authority of power of attorney.* A return made under authority of one or more powers of attorney referred to in subdivision (i) of this subparagraph shall be signed by the attorney in fact for each principal for which such attorney in fact is acting. A copy of such one or more powers of attorney shall be kept at a convenient and safe location accessible to internal revenue officers, and shall at all times be available for inspection by such officers.

(v) *Effect on penalties.* The fact that a return is made under authority of a power of attorney referred to in subdivision (i) of this subparagraph shall not affect the principal's liability for penalties provided for failure to file a return required under paragraph (a) of this section or for filing a false or fraudulent return.

(4) *Persons exempted from filing returns.* Any person required to make a return under paragraph (b) or (c) of this section with respect to a foreign corporation need not make such return provided all of the following conditions are met:

(i) Such person does not directly own an interest in the foreign corporation;

(ii) Such person is required to furnish the information solely by reason of attribution of stock ownership from a United States person under paragraph (i) of this section; and

(iii) The person from whom the stock ownership is attributed furnishes all of the information required under para-

graph (b) or (c) of this section of the person to whom such stock ownership is attributed.

(5) *Persons excepted from furnishing items of information.* Any person required to furnish any item of information under paragraph (b) or (c) of this section with respect to a foreign corporation, may, if such item of information is furnished by another person having an equal or greater stock interest (measured in terms of value of such stock) in such foreign corporation, satisfy such requirement by filing a statement with his return on Form 959 (Rev. Jan. 1963) indicating that such liability has been satisfied and identifying the return in which such item of information was included.

(f) *Meaning of terms.* For purposes of this section—

(1) *Acquisition.* Stock in a foreign corporation shall be considered acquired when a person has an unqualified right to receive such stock, even though such stock is not actually issued. For example, when under the law of a foreign country, all the necessary steps for incorporation are completed but stock in the corporation will not be issued within 30 days, every United States citizen or resident who is an officer or a director of such corporation, provided a United States person has an interest of 5 percent or more in such corporation, and every such United States person shall, within 90 days of the date of incorporation, file the returns required under section 6046 and this section. In the case of a reorganization, new stock may be acquired, depending on the type of reorganization, whether or not any stock certificates are surrendered or exchanged or the designation of such stock is altered.

(2) *Reorganization.* With respect to a foreign corporation, the term "reorganization" shall mean not only a transaction described in section 368(a)(1) and the regulations thereunder but also any other transaction or series of transactions which has the same effect.

(g) *Method of reporting.* All amounts furnished in returns prescribed under this section shall be expressed in United States currency with a statement of the exchange rates used. All statements required to be submitted on or with returns under this section shall be rendered in the English language.

(h) *Actual ownership of stock.* If any shareholder, referred to in this section, is not the actual owner of the stock of the foreign corporation, the information required under this section shall be furnished in the name of and by such actual owner. For example, in the case of stock held by a nominee, the information required under this section shall be furnished by the actual owner of such stock.

(i) *Constructive ownership of stock—*  
(1) *In general.* Stock owned directly or indirectly by or for a foreign corporation or a foreign partnership shall be considered as being owned proportion-

ately by its shareholders or partners. Thus, any United States person who is a member of a nonresident foreign partnership which becomes a shareholder in a foreign corporation shall be considered to be a shareholder in such foreign corporation to the extent of his proportionate share in such partnership.

(2) *Members of family.* An individual shall be considered as owning the stock owned directly or indirectly by or for his brothers and sisters (whether by the whole or half blood), his spouse, his ancestors, and his lineal descendants. However, when stock is treated as owned by an individual under the rule provided in this subparagraph, it shall not be treated as owned by him for the purpose of again applying such rule in order to make another the constructive owner of such stock. The provisions of this subparagraph may be illustrated by the following example:

*Example.* H, W, and HF are United States citizens. W, wife of H, owns 20 percent of the value of the outstanding stock of X, a foreign corporation. X Corporation owns 90 percent of the value of the outstanding stock of Y Corporation, a foreign corporation. Y Corporation becomes the owner of 50 percent of the value of the outstanding stock of each of two newly organized foreign corporations, M and N. In applying the "members of family" rule, H is considered to own 20 percent of the value of the outstanding stock of X Corporation, and 18 percent of the value of the outstanding stock of Y Corporation, and 9 percent of M Corporation and N Corporation. However, HF, the father of H, is not considered to own stock of X, Y, M, or N since his son, H, is not treated as the owner of such stock for purposes of again applying the "members of family" rule.

(j) *Time and place for filing return—*

(1) *Time for filing.* Any return required by section 6046 and this section shall be filed on or before the 90th day after the day on which a United States citizen, resident, or person becomes liable to file such return under any provision of section 6046(a) and of paragraph (a), (b), or (c) of this section. The Director of International Operations is authorized to grant reasonable extensions of time for filing returns under section 6046 and this section in accordance with the applicable provisions of section 6081(a) and § 1.6081-1.

(2) *Place for filing.* Returns required by section 6046 and this section shall be filed with the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

(k) *Penalties.* (1) For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207.

(2) For civil penalty for failure to file return, or failure to show information required on a return, under this section, see section 6679.

PAR. 5. At the end of the regulations in Part 301 relating to Additions to the Tax, Additional Amounts, and Assessable Penalties, there are inserted the following new sections:

§ 301.6679 Statutory provisions; failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.

SEC. 6679. *Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock—*(a) *Civil penalty.* In addition to any criminal penalty provided by law, any person required to file a return under section 6046 who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of \$1,000, unless it is shown that such failure is due to reasonable cause.

(b) *Deficiency procedures not to apply.* Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, and gift taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

[Sec. 6679 as added by sec. 20(c), Revenue Act 1962 (76 Stat. 1062)]

§ 301.6679-1 Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.

(a) *Civil penalty—*(1) *In general.* In addition to any criminal penalty provided by law, each person required to file a return under section 6046, and the regulations thereunder, who fails to file such a return within the time provided, or who files a return which does not show the required information, shall pay a penalty of \$1,000, unless such failure is shown to be due to reasonable cause.

(2) *Joint return.* The penalty imposed by section 6679 and this section shall apply to each United States citizen, resident, or person filing a joint return pursuant to the provisions of section 6046 and § 1.6046-1, which does not show the required information.

(3) *Showing of reasonable cause.* The penalty imposed by section 6679 shall not apply if it is established to the satisfaction of the Director of International Operations that such failure was due to a reasonable cause. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration that it is made under the penalties of perjury, setting forth all the facts alleged as a reasonable cause. If the taxpayer exercises ordinary business care and prudence and is nevertheless unable to furnish any item of information required under section 6046, and the regulations thereunder, such failure shall be considered due to a reasonable cause. In determining the extent of a taxpayer's ability to obtain information, the percentage of stock owned by such taxpayer and the nature of the other interests in the foreign corporation will be considered.

(b) *Deficiency procedures not to apply.* The penalty imposed by section 6679 may be assessed and collected without regard to the deficiency procedures provided by subchapter B of chapter 63 of the Code.

[F.R. Doc. 62-11971; Filed, Nov. 30, 1962; 8:52 a.m.]

## Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

### Chapter I—Veterans Administration

#### PART 3—ADJUDICATION

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

##### MISCELLANEOUS AMENDMENTS

1. In § 3.1, paragraphs (p), (q), and (r) are added to read as follows:

##### § 3.1 Definitions.

\* \* \* \* \*

(p) "Claim"—"Application" means a formal or informal communication in writing requesting a determination of entitlement or evidencing a belief in entitlement, to a benefit.

(q) "Notice" means written notice sent to a claimant or payee at his latest address of record.

(r) "Date of receipt" means the date on which a claim, information or evidence was received in the Veterans Administration, except as to specific provisions for claims or evidence received in the State Department (§ 3.108), or in the Social Security Administration (§ 3.153, § 3.201), or Department of Defense as to initial claims filed at or prior to separation.

2. A new § 3.20 is added to read as follows:

##### § 3.20 Widow's benefit for month of veteran's death.

Where the veteran died on or after December 1, 1962, the rate of death pension, death compensation or dependency and indemnity compensation otherwise payable for his widow for the month in which the death occurred shall be not less than the amount of pension or compensation which would have been payable to or for the veteran for that month but for his death. (38 U.S.C. 3110; secs. 4 and 7, Public Law 87-825)

3. In § 3.105, the introductory portion preceding paragraph (a) and paragraphs (a), (d), and (e) are amended and paragraph (f) is added to read as follows:

##### § 3.105 Revision of decisions.

The provisions of this section apply except where an award was based on an act of commission or omission by the payee, or with his knowledge (§ 3.500(b)); there is a change in law or a Veterans Administration issue, or a change in interpretation of law or a Veterans Administration issue (§ 3.114); or the evidence establishes that service connection was clearly illegal. The provisions with respect to the date of discontinuance of benefits are applicable to running awards. Where the award has been suspended, and it is determined that no additional payments are in order, the award will be discontinued effective date of last payment.

(a) *Error.* Previous determinations on which an action was predicated, including decisions of service connection,

degree of disability, age, marriage, relationship, service, dependency, line of duty, and other issues, will be accepted as correct in the absence of clear and unmistakable error. Where evidence establishes such error, the prior decision will be reversed or amended. For the purpose of authorizing benefits, the rating or other adjudicative decision which constitutes a reversal of a prior decision on the grounds of clear and unmistakable error has the same effect as if the corrected decision had been made on the date of the reversed decision. Except as provided in paragraphs (d) and (e) of this section, where an award is reduced or discontinued because of administrative error or error in judgment, the provisions of § 3.500(b)(2) will apply.

\* \* \* \* \*

(d) *Severance of service connection.* Subject to the limitations contained in §§ 3.114 and 3.957, service connection will be severed only where evidence establishes that it is clearly and unmistakably erroneous (the burden of proof being upon the Government). (Where service connection is severed because of a change in or interpretation of a law or Veterans Administration issue, the provisions of § 3.114 are for application.) A change in diagnosis may be accepted as a basis for severance action if the examining physician or physicians or other proper medical authority certifies that, in the light of all accumulated evidence, the diagnosis on which service connection was predicated is clearly erroneous. This certification must be accompanied by a summary of the facts, findings, and reasons supporting the conclusion. When severance of service connection is considered warranted, a rating proposing severance will be prepared setting forth all material facts and reasons, and submitted to Central Office for review without notice to the claimant or representative. Ratings for carious or missing teeth, pyorrhea, or Vincent's disease will not be submitted. If the proposal is approved on review by Central Office, the claimant will be notified at his latest address of record of the contemplated action and furnished detailed reasons therefor and will be given 60 days for the presentation of additional evidence to show that service connection should be maintained. If additional evidence is not received within that period, rating action will be taken and the award will be discontinued effective the last day of the month in which the 60-day period expired. (38 U.S.C. 3012(b)(6); Public Law 87-825)

(e) *Reduction in evaluation—compensation.* Where the reduction in evaluation of a service-connected disability or employability status is considered warranted and the lower evaluation would result in a reduction or discontinuance of compensation payments currently being made, rating action will be taken. The reduction will be made effective the last day of the month in which a 60-day period from date of notice to the payee expires. The veteran will be notified at his latest address of record of the action taken and

furnished detailed reasons therefor, and will be given 60 days for the presentation of additional evidence. (38 U.S.C. 3012(b)(6); Public Law 87-825)

(f) *Reduction in evaluation—pension.* Where a reduction in evaluation is considered warranted because of a change in non-service-connected disability or employability and the lower evaluation would result in a reduction or discontinuance of pension payments currently being made, the award will be reduced or discontinued effective the last day of the month in which reduction or discontinuance of the award is approved. The veteran will be notified at his latest address of record of the action taken and furnished detailed reasons therefor, and the conditions under which his claim may be reopened. (38 U.S.C. 3012(b)(5); Public Law 87-825)

4. A new § 3.114 is added to read as follows:

##### § 3.114 Change of law or Veterans Administration issue.

(a) *Effective date of awards.* Where pension, compensation, or dependency and indemnity compensation is awarded or increased pursuant to a liberalizing law or a liberalizing Veterans Administration issue, approved by the Administrator or by his direction, the effective date of such award or increase shall be fixed in accordance with the facts found, but shall not be earlier than the effective date of the act or administrative issue.

(1) If a claim is reviewed on the initiative of the Veterans Administration within 1 year from the effective date of the law or Veterans Administration issue, or at the request of a claimant received within 1 year from that date, benefits may be authorized from the effective date of the law or Veterans Administration issue.

(2) If a claim is reviewed on the initiative of the Veterans Administration more than 1 year after the effective date of the law or Veterans Administration issue, benefits may be authorized for a period of 1 year prior to the date of administrative determination of entitlement.

(3) If a claim is reviewed at the request of the claimant more than 1 year after the effective date of the law or Veterans Administration issue, benefits may be authorized for a period of 1 year prior to the date of receipt of such request. (38 U.S.C. 3010(g); Public Law 87-825)

(b) *Discontinuance of benefits.* Where the reduction or discontinuance of an award is in order because of a change in law or a Veterans Administration issue, or because of a change in interpretation of a law or Veterans Administration issue, the payee will be notified at his latest address of record of the contemplated action and furnished detailed reasons therefor, and will be given 60 days for the presentation of additional evidence. If additional evidence is not received within that period, the award will be reduced or discontinued effective the last day of the month in which the 60-day period expired. (38 U.S.C. 3012(b)(6); Public Law 87-825)

5. In § 3.152, paragraph (c) (1) is amended to read as follows:

**§ 3.152 Claims for death benefits.**

\* \* \* \* \*

(c) (1) Where a child's entitlement to dependency and indemnity compensation arises by reason of termination of a widow's right to dependency and indemnity compensation or by reason of attaining the age of 18 years, a claim will be required. (38 U.S.C. 3010(e)) Where the award to the widow is terminated by reason of her death, a claim for the child will be considered a claim for any accrued benefits which may be payable.

\* \* \* \* \*

6. Immediately following § 3.152, a new cross reference is added so that the cross references read as follows:

CROSS REFERENCES: State Department as agent of Veterans Administration. See § 3.108.  
Change in status of dependents. See § 3.651.

7. Section 3.154 is revised to read as follows:

**§ 3.154 Injury due to hospital treatment, etc.**

A formal claim for pension, compensation, dependency and indemnity compensation or any statement in a communication showing an intent to file a claim for disability or for death benefits resulting from the pursuit of a course of vocational rehabilitation, hospitalization, medical or surgical treatment, or examination under Veterans Administration laws may be accepted as a claim. (38 U.S.C. 351; sec. 3, Public Law 87-825)

8. Immediately following § 3.154, the cross references are revised to read as follows:

CROSS REFERENCES: Effective dates. See § 3.400.  
Disability or death due to hospitalization, etc. See § 3.800(a).

9. In § 3.156, former paragraphs (a), (b), (c), (f), and (g) are canceled; former paragraph (d) revised and redesignated (a); and former paragraph (e) redesignated (b), so that the revised § 3.156 reads as follows:

**§ 3.156 New and material evidence.**

(a) New and material evidence received prior to the expiration of the appeal period, or prior to the appellate decision, will be considered as having been filed in connection with the claim which was pending at the beginning of the appeal period.

(b) Where the new and material evidence consists of a supplemental report from the service department, received before or after the decision has become final, the former decision will be reconsidered by the adjudicating agency of original jurisdiction. This comprehends official service department records which presumably have been misplaced and have now been located and forwarded to the Veterans Administration. Also included are corrections by the service department of former errors of commission or omission in the preparation of the prior report or reports and identified as

such. The retroactive evaluation of disability resulting from disease or injury subsequently service connected on the basis of the new evidence from the service department must be supported adequately by medical evidence. Where such records clearly support the assignment of a specific rating over a part or the entire period of time involved, a retroactive evaluation will be assigned accordingly except as it may be affected by the filing date of the original claim.

10. In § 3.157, the headnote, paragraph (a) and subparagraphs (1) and (3) of paragraph (b) are amended to read as follows:

**§ 3.157 Report of examination or hospitalization as claim for increase or to reopen.**

(a) *General.* Effective date of pension or compensation benefits, if otherwise in order, will be the date of receipt of a claim or the date when entitlement arose, whichever is the later. A report of examination or hospitalization which meets the requirements of this section will be accepted as an informal claim for benefits under an existing law or for benefits under a liberalizing law or Veterans Administration issue, if the report relates to a disability which may establish entitlement. Acceptance of a report of examination or treatment as a claim for increase or to reopen is subject to the requirements of § 3.114 with respect to action on Veterans Administration initiative or at the request of the claimant and the payment of retroactive benefits from the date of the report or for a period of 1 year prior to the date of receipt of the report. (38 U.S.C. 3010(a); Public Law 87-825)

(b) *Claim.* \* \* \*  
(1) *Report of Veterans Administration examination or hospitalization at Veterans Administration expense.* The date of outpatient or hospital examination or date of admission to a Veterans Administration hospital or date of admission to a non-Veterans Administration hospital if previously authorized will be accepted as the date of receipt of a claim. If subsequently authorized the date the Veterans Administration received notice of admission to a non-Veterans Administration hospital will be accepted.

\* \* \* \* \*

(3) *State and other institutions.* When submitted by or on behalf of the veteran and entitlement is shown, date of receipt by the Veterans Administration of examination reports, clinical records, and transcripts of records will be accepted as the date of receipt of a claim if received from State, county, municipal, recognized private institutions, or other Government hospitals. These records must be authenticated by an appropriate official of the institution. Benefits will be granted if the records are adequate for rating purposes; otherwise findings will be verified by official examination. Reports received from private institutions not listed by the American Hospital Association must be certified by the Chief Medical Officer of the Veterans Administration or his physician designee.

11. Section 3.158 is revised to read as follows:

**§ 3.158 Abandoned claims.**

(a) *General.* Where evidence requested in connection with an original claim, a claim for increase or to reopen or for the purpose of determining continued entitlement is not furnished within 1 year after the date of request, the claim will be considered abandoned. After the expiration of 1 year, further action will not be taken unless a new claim is received. Should the right to benefits be finally established, pension, compensation, or dependency and indemnity compensation based on such evidence shall commence not earlier than the date of filing the new claim.

(b) *Veterans Administration examinations.* Where the veteran fails without adequate reason to respond to an order to report for Veterans Administration examination within 1 year from the date of request and payments have been discontinued, the claim for such benefits will be considered abandoned.

(c) *Disappearance.* Where payments of pension, compensation, or dependency and indemnity compensation have not been made or have been discontinued because a payee's present whereabouts is unknown for a period of 1 year or more, payments will not be made for any period prior to the date the evidence showing the payee's present whereabouts is received in the Veterans Administration, if otherwise in order.

12. Immediately following § 3.158, two new cross references are added so that the cross references read as follows:

CROSS REFERENCES: Determinations of domestic status and dependency. See § 3.652.  
Failure to report for Veterans Administration examination. See § 3.655.  
Disappearance of veteran. See § 3.656.

13. A new § 3.160 is added to read as follows:

**§ 3.160 Status of claims.**

The following definitions are applicable to claims for pension, compensation, and dependency and indemnity compensation.

(a) *Informal claim.* See § 3.155.

(b) *Original claim.* An initial formal application on a form prescribed by the Administrator (See §§ 3.151, 3.152).

(c) *Pending claim.* An application, formal or informal, which has not been finally adjudicated.

(d) *Finally adjudicated claim.* An application, formal or informal, which has been allowed or disallowed by the agency of original jurisdiction, the action having become final by the expiration of 1 year after the date of notice of an award or disallowance, or by denial on appellate review, whichever is the earlier. See § 3.104(c).

(e) *Reopened claim.* Any application for a benefit received after final disallowance of an earlier claim.

(f) *Claim for increase.* Any application for an increase in rate of a benefit being paid under a current award, or for resumption of payments previously discontinued.

14. In § 3.213, paragraphs (a) and (b) are amended to read as follows:

**§ 3.213 Change of status affecting entitlement.**

(a) *General.* Proof will be required to establish a change of status which would result in payment of a higher rate of pension, compensation or dependency and indemnity compensation. For the purpose of reducing or discontinuing such benefits, a statement by a claimant or payee setting forth the month and year of change of status which would result in a reduction or discontinuance of benefits to that person will be accepted, in the absence of contradictory information. This includes:

(1) *Veteran.* A statement by the veteran setting forth the month and year of death of a wife, child, or dependent parent.

(2) *Widow.* A statement by the widow or remarried widow setting forth the month and year of remarriage and her present name. (An award for a child or children who are otherwise entitled may be made to commence the day following the date of discontinuance of payments to the widow.)

(3) *Child.* A statement by the veteran or widow (where an additional allowance is being paid to the veteran or widow for a child), or fiduciary, setting forth the month and year of the child's death, marriage, or discontinuance of school attendance. A similar statement by a child who is receiving payments direct will be accepted to establish his marriage or the discontinuance of school attendance. Where appropriate, the month and year of discontinuance of school attendance will be required in addition to the month and year of death or marriage of a child.

(4) *Parent.* A statement by a parent setting forth the month and year:

- (i) Of marriage or remarriage;
- (ii) When two parents or a parent and spouse ceased living together;
- (iii) When two parents or a parent and spouse resumed living together following a period of separation;
- (iv) Of divorce or death of a spouse.

(b) *Date not reported.* If the month and year of the event is not reported, the award will be reduced or discontinued, whichever is appropriate, effective date of last payment. The payee will be requested to furnish within 60 days from the date of request a statement setting forth the date of the event. Where payments are continued at a reduced rate, the award will be discontinued effective date of last payment if the required statement is not received within the 60-day period. Payments on a discontinued award may be resumed, if otherwise in order, from the date of discontinuance if the necessary information is received within 1 year from the date of request; otherwise from the date of receipt of a new claim.

15. Immediately following § 3.213, two new cross references are added so that the cross references read as follows:

CROSS REFERENCES: Abandoned claims. See § 3.158.

Change in status of dependents. See § 3.651.

Material change in income, net worth or change in status. See § 3.660.

16. In § 3.400, the introductory portion preceding paragraph (a) and paragraphs (c), (d), (f), (g), (i), (o), (p), (q), and (r) are amended and paragraph (v) is added to read as follows:

**§ 3.400 General.**

Except as otherwise provided, the effective date of an award of pension, compensation or dependency and indemnity compensation based on an original claim, a claim reopened after final disallowance, or a claim for increase will be the date of receipt of the claim or the date entitlement arose, whichever is the later. The effective date of an evaluation and award of pension or compensation for a veteran will be the date of receipt of the claim or the date entitlement arose, whichever is later. (38 U.S.C. 3010(a); Pub. Law 87-825)

(c) *Death benefits*—(1) *Death in service* (38 U.S.C. 3010(j); Public Law 87-825; §§ 3.4(c), 3.5(b)). First day of the month fixed by the Secretary concerned as the date of actual or presumed death, if claim is received within 1 year after the date the initial report of actual death or finding of presumed death was made; however, benefits based on a report of actual death are not payable for any period for which the claimant has received, or is entitled to receive an allowance, allotment, or service pay of the veteran.

(2) *Death after separation from service* (38 U.S.C. 3010(d); Public Law 87-825; §§ 3.3(d), 3.4(c), 3.5(b)). First day of the month in which the veteran's death occurred if claim is received within 1 year after the date of death; otherwise, date of receipt of claim.

(3) *Dependency and indemnity compensation*—(i) *Deaths prior to January 1, 1957* (§ 3.702). Date of receipt of election or date dependency and indemnity compensation becomes the greater monthly benefit if election is received within (generally) 120 days before that date.

(ii) *Child* (38 U.S.C. 3010(e); Public Law 87-825). First day of the month in which entitlement arose if claim is received within 1 year after the date of entitlement; otherwise, date of receipt of claim.

(d) *Age; veteran 65, widow 70* (§ 3.208). In other than original claims date of receipt of claim or 65th (or 70th) birthday, whichever is later, if evidence filed within 1 year after date of request.

(f) *Bureau of Employees' Compensation cases* (§ 3.708). Date authorized by applicable law, subject to any payments made by the Bureau of Employees' Compensation over the same period of time.

(g) *Correction of military records* (38 U.S.C. 3010(i); Public Law 87-825). Where entitlement is established because of the correction, change or modification of a military record, or of a discharge or dismissal, by a Board established under 10 U.S.C. 1552 or 1553, or because of other corrective action by competent

military naval, or air authority, the award will be effective from the latest of these dates:

(1) Date application for change, correction, or modification was filed with the service department, in either an original or a disallowed claim;

(2) Date of receipt of claim if claim was disallowed; or

(3) One year prior to date of reopening of disallowed claim.

(i) *Disability or death due to hospitalization, etc.* (38 U.S.C. 3010 (c), (d); Public Law 87-825; § 3.800)—(1) *Disability.* Date injury or aggravation was suffered if claim is received within 1 year after that date; otherwise, date of receipt of claim.

(2) *Death.* First day of month in which the veteran's death occurred if a claim is received within 1 year following the date of death; otherwise, date of receipt of claim.

(o) *Increases* (38 U.S.C. 3010(a); Public Law 87-825; §§ 3.109, 3.156, 3.157). Except as provided in § 3.401(b) (2), date of receipt of claim or date entitlement arose, whichever is later. A retroactive increase or additional benefit will not be awarded after basic entitlement has been terminated, such as by severance of service connection.

(p) *Liberalizing laws and Veterans Administration issues.* See § 3.114.

(q) *New and material evidence* (§ 3.156)—(1) *Other than service department records*—(i) *Received within appeal period or prior to appellate decision.* The effective date will be as though the former decision had not been rendered. See § 3.104(c).

(ii) *Received after final disallowance.* Date of receipt of new claim or date entitlement arose, whichever is later.

(2) *Service department records.* To agree with evaluation (since it is considered these records were lost or mislaid) or date of receipt of claim on which prior evaluation was made, whichever is later, subject to rules on original claims filed within 1 year after separation from service. See paragraph (g) of this section as to correction of military records.

(r) *Reopened claims* (§§ 3.109, 3.156, 3.157). Date of receipt of claim or date entitlement arose, whichever is later.

(v) *Void or annulled marriage (or remarriage)* (38 U.S.C. 3010(f), Public Law 87-674; 38 U.S.C. 3010 (a), (k); Public Law 87-825; § 3.55)—(1) *Void.* Date the parties ceased to cohabit or date of receipt of claim, whichever is later.

(2) *Annulled.* Date the decree of annulment became final if claim is filed within 1 year after that date; otherwise date of receipt of claim.

17. In § 3.401, paragraphs (b) and (f) are amended and paragraph (h) is added to read as follows:

**§ 3.401 Veterans.**

Awards of pension or compensation payable to or for a veteran will be effective as follows:

(b) *Dependents, additional compensation for* (§ 3.4(b)(2)). The earlier of the following dates:

(1) Commencing date of veteran's award if dependent shown on claim and evidence is received within 1 year after date of request.

(2) For compensation, effective date of the qualifying evaluation if basic proof of dependents in existence on that date is received within 1 year after date of notification of such evaluation, and any necessary substantiating evidence is received within 1 year after date of request. (38 U.S.C. 3010(f); Public Law 87-825) (Other increases, including disability pension, see § 3.400(o))

(f) *Service pension* (§ 3.3(b)). Date of receipt of claim.

(h) *Temporary increase* (Paragraph 29, "General Policy in Rating," 1945 Schedule for Rating Disabilities). Date of entrance into hospital, after 21 days of continuous hospitalization for treatment.

18. In § 3.402, paragraph (c) is revoked.

§ 3.402 Widows.

Awards of pension, compensation, or dependency and indemnity compensation to or for a widow will be effective as follows:

(c) [Revoked]

18a. In § 3.403, paragraph (a) is amended to read as follows:

§ 3.403 Children.

Awards of pension, compensation, or dependency and indemnity compensation to or for a child, or to or for a veteran or widow on behalf of such child, will be effective as follows:

(a) *Permanently incapable of self-support* (§ 3.57(a)(3)). In original claims, date fixed by §§ 3.400 (b) or (c) or 3.401(b). In claims for continuation of payments, 18th birthday if the condition is claimed prior to or within 1 year after that date; otherwise from date of receipt of claim.

19. In § 3.500, the introductory portion preceding paragraph (a), paragraphs (b), (d), (e), (g), (h), (i), (k), (l), (n), and (r) are amended and paragraphs (v) and (w) are added to read as follows:

§ 3.500 General.

The effective date of a rating which results in the reduction or discontinuance of an award will be in accordance with the facts found except as provided in § 3.105. The effective date of reduction or discontinuance of an award of pension, compensation, or dependency and indemnity compensation for a payee or dependent will be the earliest of the dates stated in these paragraphs unless otherwise provided. Where an award is reduced, the reduced rate will be effective the day following the date of dis-

continuance of the greater benefit. (38 U.S.C. 3012(b); Public Law 87-825.)

(b) *Error; payee's or administrative* (38 U.S.C. 3012(b) (9), (10); Public Law 87-825). (1) Effective date of award or day preceding act, whichever is later, but not prior to the date entitlement ceased, on an erroneous award based on an act of commission or omission by a payee or with his knowledge.

(2) Except as provided in paragraph (r) of this section, and § 3.501 (e) and (g), date of last payment on an erroneous award based solely on administrative error or error in judgment.

(d) *Apportionment* (§§ 3.450 series; 3.556). (1) Except as otherwise provided, date of last payment when reason for apportionment no longer exists.

(2) Where pension was apportioned under § 3.551(c), day preceding date of veteran's release from hospital, unless overpayment would result; date of last payment if necessary to avoid overpayment.

(e) *Bureau of Employees' Compensation* (§ 3.708). End of month following the month in which there is received from Bureau of Employees' Compensation notice that payee has elected benefits from that agency. If children on rolls and widow has primary title, award to children discontinued same date as widow's award.

(g) *Death* (38 U.S.C. 3012 (a), (b); Public Law 87-825)—(1) *Payee*. Last day of month before death.

(2) *Dependent of payee (includes apportionee)*. Last day of month in which death occurred.

(3) *Veteran receiving retirement pay*. Date of death.

(h) *Dependency of parent* (38 U.S.C. 3012(b)(4); Public Law 87-825; §§ 3.4 (a), (b)(2), 3.250, 3.551(b), and 3.660). Last day of month in which dependency ceased.

(i) *Election of Veterans Administration benefits* (§ 3.700 series). Day preceding beginning date of award under other law.

(k) *Fraud* (38 U.S.C. 3503(a), (d); §§ 3.669 and 3.901). Beginning date of award or day preceding date of fraudulent act, whichever is later.

(1) *Guardian, marriage or divorce of* (§ 3.856). Date of last payment (pending receipt of information as to change of name).

(n) *Marriage (or remarriage)* (38 U.S.C. 101(3), Public Law 87-674; 38 U.S.C. 3012(b), Public Law 87-825)—(1) *Payee*. Last day of month before marriage.

(2) *Dependent of payee (includes apportionee)*. Last day of month in which marriage occurred.

(3) *Inferred marriage of child*. Last day of month as provided in subparagraph (1) or (2) of this paragraph.

(4) *Conduct of widow*. Last day of month before inception of relationship.

(r) *Service connection* (38 U.S.C. 3012(b)(6); Public Law 87-825; § 3.105). Last day of month following 60 days after notice to payee. Applies to change from wartime to peacetime, reduced evaluation, and severance of service connection.

(v) *Change in law or Veterans Administration issue, or interpretation*. See § 3.114.

(w) *Failure to furnish evidence*. Except as otherwise provided, date of last payment where evidence requested to establish continued entitlement is not furnished.

20. Immediately following § 3.500, a new cross reference is added to read as follows:

CROSS REFERENCE: Failure to return questionnaire. See § 3.661(b).

21. In § 3.501, paragraphs (a), (b), (c), (d), (e), (g), (i), (k), and (l) are amended and paragraph (m) is added to read as follows:

§ 3.501 Veterans.

(a) *Active service pay* (38 U.S.C. 3012 (b)(3); Public Law 87-825; § 3.700(a)). Day preceding entrance on active duty. See § 3.654.

(b) *Aid and attendance*—(1) § 3.552 (b)(1). Day preceding date of admission for hospitalization, institutional or domiciliary care at Veterans Administration expense.

(2) § 3.552(b)(2). Last day of calendar month following month in which veteran hospitalized at United States Government expense.

(c) *Disappearance of veteran*. See § 3.656.

(d) *Divorce* (38 U.S.C. 3012(b)(2); Public Law 87-825). Last day of month in which divorce occurred.

(e) *Employability regained* (38 U.S.C. 3012(b)(5), (6); Public Law 87-825; § 3.105)—(1) *Pension*. Last day of month in which discontinuance is approved.

(2) *Compensation*. Last day of month following 60 days after notice to payee.

(g) *Evaluation reduced* (38 U.S.C. 3012(b)(5), (6); Public Law 87-825; § 3.105)—(1) *Pension*. Last day of month in which reduction or discontinuance is approved.

(2) *Compensation*. Last day of month following 60 days after notice to payee.

(i) *Hospitalization*—(1) § 3.551(b). First day of seventh calendar month following admission if veteran without dependents, or date of last payment if notice is not timely received.

(2) § 3.551(c). First day of third calendar month following admission if veteran without wife or child or, though married, is receiving pension at rate provided by 38 U.S.C. 521(b).

(3) § 3.557. Incompetent hospitalized veteran, without dependents, whose estate equals or exceeds \$1,500: Date of

admission or end of the month in which any Veterans Administration office receives information that estate equals or exceeds \$1,500, whichever is later. If the veteran was hospitalized for observation and examination, the date treatment began will be considered the date of admission.

(k) *Lump-sum readjustment pay.* See § 3.700(a)(2).

(l) *Retirement pay* (38 U.S.C. 3012(b)(3); *Public Law 87-825*; § 3.750). Day before effective date of retirement pay.

(m) *Temporary increase* (38 U.S.C. 3012(b)(8); *Public Law 87-825*; *Paragraph 29, "General Policy in Rating," 1945 Schedule for Rating Disabilities*). Last day of month in which hospitalization or treatment terminated, whichever is earlier, where temporary increase in compensation was authorized because of hospitalization for treatment.

22. In § 3.502, paragraphs (a) and (b) are amended and paragraph (d) is added to read as follows:

#### § 3.502 Widows.

(a) *Additional allowance of dependency and indemnity compensation for children* (§ 3.5(a)(3)). (1) Day preceding child's 18th birthday or last day of month in which child's marriage occurred (see § 3.500(n)(2) and (3)), whichever is earlier.

(2) Last day of month in which increase was effective, when allowance is reduced or discontinued because of increase in Old-Age and Survivor's Insurance.

(b) *Basic pay; dependency and indemnity compensation* (38 U.S.C. 411(a), 3012(b)(10); *Public Law 87-825*). Date of last payment when rate is reduced because of new certification of basic pay.

(d) *Marriage.* See § 3.500(n).

23. In § 3.503, paragraphs (a), (b), (c), (d), and (h) are amended to read as follows:

#### § 3.503 Children.

(a) *Age 18 (or 21)* (38 U.S.C. 3012(a); *Public Law 87-825*; § 3.57). Day before 18th (or 21st) birthday.

(b) *Enters service* (§§ 3.450(b), 3.458(e)). Date of last payment of apportioned disability benefits for child not in custody of estranged wife. Full rate payable to veteran. No change where payments are being made for the child to the veteran, his estranged wife, his widow, or to the fiduciary of a child not in the widow's custody.

(c) *Permanently incapable of self-support* (38 U.S.C. 3012(a), (b)(6); *Public Law 87-825*; §§ 3.57, 3.950)—(1) *Pension.* Date of last payment.

(2) *Compensation or dependency and indemnity compensation.* Last day of month following 60 days after notice to payee.

(d) *Marriage.* See § 3.500(n).

(h) *War orphans' educational assistance* (§§ 3.707, 3.807). Day preceding

beginning date of educational assistance allowance.

24. In § 3.651, paragraph (b) is amended to read as follows:

#### § 3.651 Change in status of dependents.

(b) The commencement or adjustment will be effective the day following the reduction or discontinuance of the award to the other payee if the necessary evidence is received in the Veterans Administration within 1 year from the date of request therefor; otherwise from the date of receipt of a new claim.

25. In § 3.652, paragraph (b) is amended to read as follows:

#### § 3.652 Determinations of domestic status and dependency.

(b) If the required evidence is received within 1 year from the date of request payments may be adjusted or resumed, if otherwise in order from the date of reduction or discontinuance. If the evidence is not received within 1 year from the date of request therefor, the adjustment or resumption will not be authorized prior to the date of receipt of a new claim.

26. In § 3.653, paragraphs (b) and (c) (3) are amended to read as follows:

#### § 3.653 Foreign residence.

(b) *Retroactive payments.* Except as provided in paragraph (c) of this section, any amount not paid to an alien under this section, together with any amounts placed to his credit in the special deposit account in the Treasury or covered into the Treasury as miscellaneous receipts under 31 U.S.C. 123-128 will be paid to him on the filing of a new claim. Such claim should be supported with evidence that he has not been guilty of mutiny, treason, sabotage or rendering assistance to an enemy, as provided in § 3.902(a). (38 U.S.C. 3109)

(c) *"Iron Curtain Countries."*

(3) *Countries removed from "Iron Curtain" list.* When a country has been removed from the list of "Iron Curtain Countries," and the payee is otherwise entitled, the award will include payments which were not made because the Veterans Administration was prevented from obtaining evidence of the continued existence of the payee, if a claim is filed within 1 year from the date the country is removed from the "Iron Curtain" list.

27. Section 3.654 is revised to read as follows:

#### § 3.654 Active service pay.

(a) *General.* Pension, compensation, or retirement pay will be discontinued under the circumstances stated in § 3.700(a)(1) for any period for which the veteran received active service pay. For the purposes of this section, active service pay means pay received for active duty, active duty for training or inactive duty training.

(b) *Active duty.* (1) Where the veteran returns to active duty status, the award will be discontinued effective the day preceding reentrance into active duty status. If the exact date is not known, payments will be discontinued effective date of last payment and as of the correct date when the date of reentrance has been ascertained from the service department.

(2) Payments, if otherwise in order, will be resumed effective the day following release from active duty if claim for recommencement of payments is received within 1 year from the date of such release; otherwise payments will be resumed effective 1 year prior to the date of receipt of a new claim. Prior determinations of service connection will not be disturbed except as provided in § 3.105. Compensation will be authorized based on the degree of disability found to exist at the time the award is resumed. Disability will be evaluated on the basis of all facts, including records from the service department relating to the most recent period of active service. If a disability is incurred or aggravated in the second period of service, compensation for that disability cannot be paid unless a claim therefor is filed.

(c) *Training duty.* Prospective adjustment of awards may be made where the veteran waives his Veterans Administration benefit covering anticipated receipt of active service pay because of expected periods of active duty for training or inactive duty training. Where readjustment is in order because service pay was not received for expected training duty, retroactive payments may be authorized if a claim for readjustment is received within 1 year after the end of the fiscal year for which payments were waived.

28. Section 3.655 is revised to read as follows:

#### § 3.655 Failure to report for Veterans Administration examination.

(a) *Discontinuance.* When a veteran without adequate reason fails to report for Veterans Administration examination, including periods of hospital observation requested for pension or compensation purposes, the awards to the veteran and any dependents will be discontinued, except as provided in paragraph (b) of this section, effective date of last payment.

(b) *Adjustment for static disabilities.* If the veteran has one or more compensable static disabilities verified by a Veterans Administration examination and one or more compensable disabilities nonstatic in nature and without adequate reason fails to report for examination, including periods of hospital observation, the awards to the veteran and any dependents will be amended to pay an amount based on the degree of disability of such static disabilities effective the day following the date of last payment.

(c) *Resumption; no change in evaluation.* When payments have been discontinued because of failure to report for examination, payments will be resumed effective the day following the date of last payment if the evidence

clearly establishes that during the period of his failure to report the disability existed in the former compensable degree and the claim was not abandoned and the rating agency confirms and continues the prior evaluation.

(d) *Resumption; reduced evaluation.* If the examination shows a changed condition and the disability is no longer compensable in degree, the award will not be reopened for the period of discontinuance. Except as to abandoned claims, if a lesser compensable degree of disability is shown the award will be resumed at the lower rate.

(e) *Resumption; increased evaluation.* Except as to abandoned claims, if the examination shows increased disability, increased benefits will be authorized from the date of examination or the date of receipt of a claim for such increase, whichever is earlier, with the former rate in effect from the day following date of last payment through the day preceding the date of the increase in rate.

(f) *Abandoned claims.* If the claim was abandoned, and the veteran subsequently states that he is willing to report for examination, benefits may be paid from the date of receipt of the new claim if he reports for such examination within 1 year from date of notice to report.

29. Immediately following § 3.655, two new cross references are added so that the cross references read as follows:

CROSS REFERENCES: Abandoned claims. See § 3.158.

Claimants required to report when requested. See § 3.329.

Resumption of rating when veteran subsequently reports for physical examination. See § 3.330.

Examination; failure to report. See § 3.501(h).

30. In § 3.656, paragraphs (a) and (b) are amended to read as follows:

**§ 3.656 Disappearance of veteran.**

(a) When any veteran has disappeared for 90 days or more and his whereabouts remain unknown to the members of his family and the Veterans Administration, disability compensation which he was receiving or entitled to receive may be paid to or for his wife, children and parents, effective the day following the date of last payment to the veteran if a claim is received within 1 year after that date; otherwise from the date of receipt of a claim. The total amount payable will be the lesser of these amounts:

(1) Dependency and indemnity compensation.

(2) Amount of compensation payable to the veteran at the time of disappearance.

(b) Where a veteran's whereabouts become known to the Veterans Administration after an award to dependents has been made as provided in this section, the award to the dependents will be discontinued effective date of last payment, and appropriate action will be taken to adjust the veteran's award in accordance with the facts found. (38 U.S.C. 358)

31. In § 3.660, paragraphs (a) (1) and (3) and (b) (1)(ii) and (2) (1)(b), (ii) and (iii) are amended and paragraph (a) (4) is added to read as follows:

**§ 3.660 Material change in income, net worth or change in status.**

(a) *Requiring reduction or discontinuance—(1) Dependency and indemnity compensation.* If, after approval of an award of dependency and indemnity compensation or the submission of an annual income questionnaire, the payee begins to receive additional income at a rate which if continued will cause his income to exceed the income limitation applicable to the rate of dependency and indemnity compensation being paid or by reason of a change in marital status he would not be eligible to receive the rate of dependency and indemnity compensation which was awarded, he must notify the Veterans Administration of such fact. The award to each payee will be adjusted as of the last day of the month (1962 and thereafter) in which such additional income was received or the change in marital status occurred. Where parents are living together, an overpayment will be established for each parent who was in receipt of dependency and indemnity compensation. Any overpayment created under this subparagraph will be subject to recovery if not waived. (38 U.S.C. 415(f))

(3) *Pension.* If, after approval of an award or the submission of an annual income (and net worth where applicable) questionnaire, the payee begins to receive additional income at a rate which if continued will cause his income to exceed the income limitation applicable to the rate of pension being paid, or if by reason of a change in marital or dependency status or increase in net worth he is not eligible to receive the rate of pension which was awarded he must notify the Veterans Administration of such fact. The award to the payee will be adjusted as of the last day of the month (1962 and thereafter) in which such additional income was received, net worth increased or the change in marital or dependency status occurred. Any overpayment created under this subparagraph will be subject to recovery if not waived.

(4) *Anticipated increase.* When information has been furnished by the payee on a questionnaire or otherwise that he anticipates receiving income which will require reduction or discontinuance of dependency and indemnity compensation, compensation or pension, the award will be reduced or discontinued the date of last payment. (38 U.S.C. 3012(b) (4); Public Law 87-825)

(b) *Requiring award or increase—(1) Dependency and indemnity compensation.*

(ii) *Change in marital status.* Except as provided in § 3.651, where a change in marital status occurs which would permit payment at a higher rate, the increased rate will be effective the date of receipt of notice constituting an informal claim reporting the change in

status. Income will be computed in accordance with § 3.251(g).

(2) *Pension—(i) Income \* \* \**

(b) *Actual income.* Where a claim was disallowed, award deferred or made at a lower rate based on anticipated income, an award or increased award may be made from the first of that calendar year if evidence is received within the same or the next calendar year showing the income was less than the statutory limitation or was within a lower income increment. (38 U.S.C. 3010(h); Public Law 87-825)

(ii) *Change in marital status or status of dependents.* Except as provided in § 3.651, where a change in marital status or status of dependents occurs which would permit payment at a higher rate, the increased rate will be effective from the date of receipt of notice constituting an informal claim reporting the change in status. In such cases income will be computed in accordance with § 3.252(e).

(iii) *Reduction in net worth or change in circumstances.* Where a claim has been finally disallowed because of the net worth provisions of 38 U.S.C. 522 or 543, or because of the corpus of estate provisions of § 3.250(e) and evidence is received of a reduction in net worth or a change in circumstances such as health, acquisition of a dependent, increase in rate of depletion of "corpus of estate", benefits will not be paid for any period prior to date of receipt of the new claim.

32. In § 3.661(b), subparagraph (2) is amended to read as follows:

**§ 3.661 Income and net worth questionnaires.**

(b) *Failure to return questionnaire. \* \* \**

(2) *Resumption of benefits.* Payment may be made, if otherwise in order, from the date of last payment if evidence of entitlement is received within 1 year from the date the claimant is notified of the termination of payments; otherwise benefits may not be paid for any period prior to date of receipt of the new claim.

33. Immediately following § 3.661, the cross reference "Material change in income, net worth or change in status. See § 3.660" is deleted.

34. In § 3.662, paragraph (a) is amended to read as follows:

**§ 3.662 Children, no widow entitled.**

(a) When an award of death pension to a widow with a child or children has been discontinued for the reason that her annual income is in excess of the statutory limitation, payments to the child or children whose annual income, determined separately, does not exceed the statutory limitation will commence effective the day following the date of last payment to the widow. In those cases in which an award of death pension to a widow is discontinued retroactively in accordance with the provisions of § 3.660 and an additional amount in behalf of a child or children was included in the award, an adjustment will be made in the award to the widow. The monthly

rate payable to the widow for the period from the effective date of discontinuance to the date of last payment will be the amount to which such child or children would have been entitled during that period.

\* \* \* \* \*

35. In § 3.667, paragraphs (b) and (c) are amended and a citation added following paragraph (e) to read as follows:

§ 3.667 School attendance.

\* \* \* \* \*

(b) *Vacation periods.* A child is considered to be in school during a vacation or other holiday period if he was attending school at the end of the preceding school term and resumes attendance, either in the same or a different approved school, at the beginning of the next term. If an award has been made covering a vacation period, and the child fails to resume attendance, or the required evidence of attendance is not received within 10 days (30 days if residing outside the continental limits of the United States) after the date the child expected to commence or resume school attendance, benefits will be terminated the date of last payment or the last day of the month preceding the date of failure to pursue the course, whichever is the earlier. Benefits may be paid from the day following the date of discontinuance only if notice is received within 1 year from that date showing that the child resumed attendance at the commencement of the term.

(c) *Ending dates.* Benefits may be authorized prospectively through the last day of the month in which it is expected a course will be completed.

\* \* \* \* \*

(38 U.S.C. 3012(b)(7); Public Law 87-825)

36. Section 3.708 is revised to read as follows:

§ 3.708 Bureau of Employees' Compensation.

(a) *Military service.* (1) Where a person is entitled to compensation from the Bureau of Employees' Compensation based upon disability or death due to service in the Armed Forces and is also entitled based upon service in the Armed Forces to pension, compensation, or dependency and indemnity compensation under the laws administered by the Veterans Administration, he will elect which benefit he will receive. Pension compensation, or dependency and indemnity compensation may not be paid in such instances by the Veterans Administration concurrently with compensation from the Bureau of Employees' Compensation. Benefits are not payable by the Bureau of Employees' Compensation for disability or death incurred on or after January 1, 1957, based on military service.

(2) Effective September 13, 1960, an election to receive benefits from either agency is final. There is no right of reelection (Public Law 86-767). Where primary title is vested in the widow, her election controls the rights of any of the veteran's children, regardless of whether they are in the widow's custody and regardless of the fact that such children

may not be eligible to receive benefits under laws administered by the Bureau of Employees' Compensation. A child who is eligible for dependency and indemnity compensation or other benefits independent of the widow's entitlement may receive such benefits concurrently with payment of Bureau of Employees' Compensation benefits to the widow.

(3) The provisions of this paragraph are applicable also in those cases in which disability or death occurs as a result of having submitted to an examination, medical or surgical treatment, hospitalization or training.

(4) Payments on an award of disability or death benefits will be discontinued when there is received from the Bureau of Employees' Compensation notice that the payee has elected to receive benefits from that agency based upon military service.

(b) *Civilian employment.* Where a person is entitled to compensation from the Bureau of Employees' Compensation based upon civilian employment and is also entitled to pension, compensation or dependency and indemnity compensation under laws administered by the Veterans Administration for the same disability or death, he will elect which benefit he will receive. On or after September 13, 1960, an award cannot be approved for payment of pension, compensation or dependency and indemnity compensation concurrently with compensation from the Bureau of Employees' Compensation in such instances and an election to receive benefits from either agency is final. There is no right of reelection (Public Law 86-767). A child who is eligible for dependency and indemnity compensation or other benefits independent of the widow's entitlement may receive such benefits concurrently with payment of Bureau of Employees' Compensation benefits to the widow.

37. In § 3.800(a), the introductory portion preceding subparagraph (1) and subparagraph (2) are amended to read as follows:

§ 3.800 Disability or death due to hospitalization, etc.

(a) Where disease, injury, death or the aggravation of an existing disease or injury occurs as a result of having submitted to an examination, medical or surgical treatment, hospitalization or the pursuit of a course of vocational rehabilitation under any law administered by the Veterans Administration and not the result of his own willful misconduct, disability or death compensation, or dependency and indemnity compensation will be awarded for such disease, injury, aggravation, or death as if such condition were service connected. The commencing date of benefits is subject to the provisions of § 3.400(i). (38 U.S.C. 351; sec. 3, Public Law 87-825)

\* \* \* \* \*

(2) Where any person is awarded a judgment on or after December 1, 1962, against the United States in a civil action brought pursuant to 28 U.S.C. 1346 (b), or enters into a settlement or compromise on or after December 1, 1962, under 28 U.S.C. 2672 or 2677, by reason

of a disability, aggravation or death within the purview of this section, no compensation or dependency and indemnity compensation shall be paid to such person for any month beginning after the date such judgment, settlement, or compromise on account of such disability, aggravation, or death becomes final until the total amount of benefits which would be paid except for this provision equals the total amount included in such judgment, settlement, or compromise. (38 U.S.C. 351; sec. 3, Public Law 87-825)

\* \* \* \* \*

38. Section 3.951 is revised to read as follows:

§ 3.951 Total disability.

A rating of total disability or permanent total disability made for pension or compensation purposes under laws administered by the Veterans Administration and continuously in force for 20 or more years will not be reduced thereafter except upon a showing that such rating was based on fraud. The 20-year period will be computed from the effective date of the Veterans Administration finding of total or permanent total disability. (38 U.S.C. 110; sec. 6, Public Law 87-825)

39. Section 3.957 is revised to read as follows:

§ 3.957 Service connection.

Service connection for any disability or death granted or continued under title 38, United States Code, which has been in effect for 10 or more years will not be severed except upon a showing that the original grant was based on fraud or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge. The 10-year period will be computed from the effective date of the Veterans Administration finding of service connection. Service connection which has been in effect less than 10 years may not be severed under § 3.105 unless, after compliance with the requirements of § 3.105(d), the rating decision terminating service connection is signed within the 10-year period. (38 U.S.C. 359; sec. 6, Public Law 87-825)

40. Section 3.958 is added to read as follows:

§ 3.958 Bureau of Employees' Compensation cases.

Any award approved prior to September 13, 1960, authorizing Veterans Administration benefits concurrently with an award of Bureau of Employees' Compensation benefits based on a finding that the same disability or death was due to civilian employment is not affected by the prohibition against future awards contained in section 7(a), Federal Employees' Compensation Act as amended by Public Law 86-767.

41. In § 3.1000, paragraphs (a) introduction, (1) (iii) and (4), (b) (2) and (3), (c) and (d) (1) and (2) are amended to read as follows:

§ 3.1000 Under 38 U.S.C. 3021.

(a) *Basic entitlement.* Except as provided in §§ 3.1001 and 3.1008, where death

occurred on or after December 1, 1962, periodic monetary benefits (other than insurance and servicemen's indemnity) authorized under laws administered by the Veterans Administration, to which a payee was entitled at his death under existing ratings or decisions, or those based on evidence in the file at date of death, and due and unpaid for a period not to exceed 1 year prior to the last date of entitlement as provided in § 3.500(g) will, upon the death of such person, be paid as follows:

(1) Upon the death of a veteran to the living person first listed as follows:

\* \* \* \* \*

(iii) His dependent parents (in equal shares) or the surviving parent.

\* \* \* \* \*

(4) In all other cases, only so much of the accrued benefit may be paid as may be necessary to reimburse the person who bore the expense of last sickness or burial. (See § 3.1002.)

(b) *Apportionments.* \* \* \*

(2) Where at the date of death of the veteran an apportioned share is being paid to or has been withheld on behalf of another person, the apportioned amount remaining unpaid for periods prior to the last day of the month before the veteran's death is payable to the apportionee.

(3) Where the accrued death pension, compensation or dependency and indemnity compensation was payable for a child as an apportioned share of the widow's benefit, payment will be made under the provisions of paragraph (a) (4) of this section, on the expenses of such deceased child's last sickness or burial.

(c) *Claims and evidence.* Application for accrued benefits must be filed within 1 year after the date of death. A claim for death pension, compensation, or dependency and indemnity compensation, by an apportionee, widow, child or parent is deemed to include claim for any accrued benefits. (See § 3.152(b).)

(1) If a claimant's application is incomplete, the claimant will be notified of the evidence necessary to complete the application. If such evidence is not received within 1 year from the date of such notification, no accrued benefits may be paid.

(2) Failure to file timely claim, or a waiver of rights, by a preferred dependent will not serve to vest title in a person in a lower class or a claimant for reimbursement; neither will such failure or waiver by a person or persons in a joint class serve to increase the amount payable to another or others in the class. (38 U.S.C. 3021(c); 3012(b), Public Law 87-825)

(d) *Definitions.* (1) "Spouse" means the widow or widower of the veteran, whose marriage meets the requirements of § 3.1(j) or § 3.52. Where the marriage meets the requirements of § 3.1(j) date of marriage and continuous cohabitation are not factors.

(2) "Child" is as defined in § 3.57 and includes an unmarried child who became permanently incapable of self-support prior to attaining 18 years of age as well as an unmarried child over the age of 18 but not over 21 years of age, who was

pursuing a course of instruction within the meaning of § 3.57 at the time of the payee's death. However, upon the death of a child in receipt of death pension, compensation, or dependency and indemnity compensation, any accrued will be payable to the surviving child or children of the veteran entitled to death pension, compensation, or dependency and indemnity compensation. Upon the death of a child, another child who has elected war orphans' educational assistance under 38 U.S.C. ch. 35 may receive accrued death pension, compensation, or dependency and indemnity compensation, payable on behalf of the deceased child for periods prior to the commencement of benefits under that chapter.

\* \* \* \* \*

42. In § 3.1001(a), subparagraph (4) is amended to read as follows:

**§ 3.1001 Hospitalized competent veterans.**

(a) *Basic entitlement.* \* \* \*

(4) In all other cases, only so much of the lump sum may be paid as may be necessary to reimburse a person who bore the expenses of last sickness or burial. (See § 3.1002.)

\* \* \* \* \*

43. In § 3.1003, the introductory portion preceding paragraph (a) is amended to read as follows:

**§ 3.1003 Returned and canceled checks.**

For the purposes of §§ 3.1000 and 3.1008, where the payee of a check for benefits has died on or after the last day of the period covered by the check, and the check is returned and canceled, the amount represented by the check which is payable as limited by § 3.500(g), or any amount recovered after improper negotiation of such a check will be payable to the living person or persons in the order of precedence listed. This does not apply to checks for lump sums representing amounts withheld under § 3.551 (b) or § 3.557 which will be subject to the provisions of § 3.1001 or 3.1007, as applicable. (38 U.S.C. 3022)

\* \* \* \* \*

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

These regulations are effective December 1, 1962.

[SEAL] W. J. DRIVER,  
Deputy Administrator.  
[F.R. Doc. 62-11888; Filed Nov. 30, 1962;  
8:49 a.m.]

**PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE**

**PART 8—NATIONAL SERVICE LIFE INSURANCE**

**Miscellaneous Amendments**

1. In Part 6, § 6.207 is added to read as follows:

**§ 6.207 Total or total permanent disability for twenty years or more.**

Where the Disability Insurance Claims activity has made a finding of total or total permanent disability for insurance purposes and it is found that such disability remained continuously in effect

for 20 or more years, the finding will not be discontinued thereafter, except upon a showing that such a determination was based on fraud. The 20-year period will be computed from the date the continuous total or total permanent disability commenced, as determined by the Disability Insurance Claims activity.

2. In Part 8, a new center title and § 8.118 are added to read as follows:

**TOTAL DISABILITY FOR TWENTY YEARS OR MORE**

**§ 8.118 Total disability for twenty years or more.**

Where the Disability Insurance Claims activity has made a finding of total disability for insurance purposes and it is found that such disability remained continuously in effect for 20 or more years, the finding will not be discontinued thereafter, except upon a showing that such a determination was based on fraud. The 20-year period will be computed from the date the continuous total disability commenced, as determined by the Disability Insurance Claims activity. (72 Stat. 1114; 38 U.S.C. 210)

These regulations are effective December 1, 1962.

[SEAL] W. J. DRIVER,  
Deputy Administrator.  
[F.R. Doc. 62-11889; Filed, Nov. 30, 1962;  
8:49 a.m.]

**Title 32—NATIONAL DEFENSE**

**Chapter I—Office of the Secretary of Defense**

**SUBCHAPTER G—CIVIL DEFENSE**

**PART 231—CIVIL DEFENSE IDENTIFICATION FOR FEDERAL EMPLOYEES, RESERVISTS AND NON-FEDERAL SUPPORT PERSONNEL**

**Correction**

In F.R. Doc. 62-10891, appearing at page 10541 of the issue for Tuesday, October 30, 1962, § 231.3 and its footnote should read as follows:

**§ 231.3 Description of card.<sup>1</sup>**

(a) A red-bordered, laminated, numbered identification card, overall size 2 3/8 inches x 3 5/8 inches has been prescribed for this purpose. Printed on the face in the top red-border in black type are the words "Federal Emergency Assignee". The left part of the card contains a photograph of the bearer (black and white or color photograph is acceptable) and, immediately under the photograph, the bearer's name and signature appears. The right portion of the card contains the following:

The person described on this card has been assigned essential emergency duties for the Federal Government. It is imperative that the bearer be assisted in travel by the fastest possible means to this emergency assignment.

<sup>1</sup> Sample of Identification Card filed with the original document.

This is overprinted on the Civil Defense insignia. Immediately under this appears the name of the issuing agency, followed by the signature and title of the issuing official. The bottom red-border contains the words "Identification Card" in black type.

The reverse side of the card bears in the upper left portion, the legend Standard Form 138 (Rev. 6/62) OCD Reg. 231, with a reference to this part, and the Department of Defense Seal appears immediately below. The right portion shows date of birth, height, weight, color of hair, color of eyes and the date the card was issued. Immediately below, the Government contractor or Federal agency's name is shown and the official signature and title. The next line contains a preprinted card number. Below this is the Government penalty statement on misuse, counterfeiting or alteration of the card. Immediately above the bottom red-border of the card the return postage guarantee statement appears.

## Title 43—PUBLIC LANDS: INTERIOR

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

#### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2820]

[Anchorage 052774-B]

[62594]

#### ALASKA

### Revoking Public Land Order No. 861 of September 3, 1952

By virtue of the authority vested in the President, and pursuant to Executive

Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Public Land Order No. 861 of September 3, 1952, which withdrew public lands in the Susitna Flats area, Alaska, for use of the Department of the Army as an anti-aircraft artillery firing range, and which was revoked in part by Public Land Order No. 2340 of April 19, 1961, is hereby revoked in its entirety. The lands affected are now designated as unofficial U.S. Survey No. 3942, containing approximately 18,570 acres.

2. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to settlement and to filing of applications, selections and locations in accordance with the following:

(a) Until 10:00 a.m. on February 27, 1963, the State of Alaska shall have a preferred right to select the lands in accordance with and subject to the limitations and requirements of the Act of July 28, 1956 (70 Stat. 709; 48 U.S.C. 46-3b), section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), and the regulations in 43 CFR, Part 76.

(b) Applications and selections under the nonmineral public land laws, and applications and offers under the mineral leasing laws, may be presented to the Manager named below, beginning on the date of this order. Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation, will be adjudicated on the facts presented in support thereof. All other applications will be subject to the applications and claims mentioned in this paragraph.

(c) All valid applications and selections under the nonmineral public land laws, other than those coming under subparagraphs (a) and (b) above, and applications and offers under the mineral

leasing laws, presented prior to 10:00 a.m. on February 27, 1963, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

(d) The lands will be open to settlement under the homestead and Alaska homesite laws, and to location under the United States mining laws, beginning at 10:00 a.m. on February 27, 1963.

3. The area has been utilized by the Department of the Army as a bombing, gunnery and rocketry range. That Department has completed explosive contamination surveys of all areas traversable by foot, without locating unexploded ordnance. However, the United States cannot and does not give any assurance that contamination does not exist in any part of the area.

4. All locations and settlements shall be made and leases under the mineral leasing laws shall be issued with the understanding that the United States neither warrants nor represents that the lands are safe or suitable for such use. All leases shall contain provisions absolving and releasing the United States from any and all liability of whatever nature for damages for personal injury, death or damage to property arising out of operations under such lease, which may be suffered by the lessee, his successors and assigns, and the agents, servants and employees of either.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Anchorage, Alaska.

JOHN A. CARVER, JR.,  
Assistant Secretary  
of the Interior.

NOVEMBER 27, 1962.

[F.R. Doc. 62-11874; Filed, Nov. 30, 1962;  
8:46 a.m.]

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

[ 7 CFR Part 811 ]

[ Sugar Reg. 811 ]

### CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

#### Proposed Determination for Calendar Year 1963

Notice is hereby given that the Secretary of Agriculture pursuant to authority vested in him by the Sugar Act of 1948, as amended (61 Stat. 922, as amended), is considering the determination of the amount of sugar needed to meet the requirements of consumers in the continental United States and the establishment of sugar quotas for the calendar year 1963.

In accordance with the rule making requirements of the Administrative Procedure Act (60 Stat. 237), all persons who desire to submit written data, views or arguments for consideration in connection with the proposed regulation may file the same in duplicate with the Director of the Sugar Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington 25, D.C., at any time prior to December 5, 1962.

The proposed determination of sugar requirements for the continental United States and quotas for the calendar year 1963 set forth in form and language appropriate for issuance, if adopted by the Secretary, are as follows:

*Basis and purpose.* The purpose of Sugar Regulation 811 is to determine pursuant to section 201 of the Sugar Act of 1948, as amended (hereinafter called the "Act"), the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1963 and to establish pursuant to section 202 of the Act, sugar quotas for the supplying areas in terms of short tons of sugar, raw value, equal to the quantity determined by the Secretary of Agriculture to be needed in 1963. Further, this regulation establishes (1) the amounts of certain quotas that may be filled by direct-consumption sugar pursuant to section 207 of the Act, (2) the liquid sugar quota pursuant to section 208 of the Act, and (3) the import fee applicable to sugar imported from foreign countries as provided by section 213 of the Act.

Section 201 of the Act directs the Secretary to determine for each calendar year the amount of sugar needed to meet the requirements of consumers in the continental United States and to revise such determination during the calendar year whenever he deems it necessary. The section sets forth criteria to guide the Secretary in his determination and states that such determination shall

be made so as to protect the welfare of consumers and of those engaged in the domestic sugar industry by providing such supply of sugar as will be consumed at prices which will not be excessive to consumers and which will fairly and equitably maintain and protect the welfare of the domestic sugar industry.

During the 12-month period ended October 31, 1962, distribution of sugar for consumption in the continental United States totaled 9,711,000 short tons, raw value. Inventories of sugar in the hands of food processors, wholesalers and retailers are believed to have increased during this period in which case actual consumption would have been less than the quantity distributed. Allowing for this on the one hand and on the other for normal increases in consumption due to the increase in population and for refining losses, the quantity of sugar needed in the calendar year 1963 is expected to approximate 9,800,000 short tons, raw value.

Refiners' inventories of quota sugar at the end of 1962 are expected to be slightly higher than at the end of 1961 and significantly higher than those held at the end of other recent years. It is essential that these inventories be maintained at present or higher levels to assure an uninterrupted flow of supplies to consumers.

Prices for sugar in recent months have been within a range of 6.35 to 6.55 cents per pound and the quotations on the New York Coffee and Sugar Exchange for contracts for delivery in the early months of 1963 have also been within this range.

Accordingly, the quantity of sugar needed to meet the requirements of consumers in the continental United States during the calendar year 1963 is herein determined to be 9,800,000 short tons, raw value.

The determination made herein has been based insofar as is required in section 201 of the Act, on official statistics of the Department of Agriculture and statistics published by other agencies of the Federal Government.

The quotas and proratations thereof, the amounts of such quotas or proratations that may be filled by direct-consumption sugar and the limitations on the entry of liquid sugar are established herein pursuant to sections 202, 207 and 208 of the Sugar Act, as amended.

Since the United States is not in diplomatic relations with Cuba, the provisions of section 202(c) (4) of the Act preclude the establishment of the proration for that country of 1,654,341 short tons, raw value. Of that quantity 150,000 short tons, raw value, is allocated, 130,000 tons to the Dominican Republic and 20,000 tons to Argentina in accordance with section 202(c) (4) (B) of the Act and the President's Proclamation 3485. Of the remaining 1,504,341 short tons, raw value, 750,000 tons is herein

authorized for purchase and importation from any country that is a net exporter of sugar and with which this country is in diplomatic relations. Provision is made to authorize for purchase and importation during the period January-May 1963 the 750,000 tons on the basis of proposals to be submitted by foreign countries on or before December 20, 1962, to give special consideration to countries purchasing United States agricultural commodities. Any part of the 750,000 tons not authorized pursuant to such proposals may be authorized on the basis of the order of eligibility established in Part 817 of this chapter.

Based on expected price relationships, it is hereby found that a fee of 1.80 cents per pound, raw value, will approximate the difference between the market price for raw sugar (adjusted for freight to New York and most-favored-nation-tariff) eligible for importation into the United States from foreign countries within the quantity provided pursuant to section 202(c) (4) of the Act and the price for raw sugar at a level that will fulfill the domestic price objective set forth in section 201. Accordingly, as a condition for the importation of sugar within the quantities and quota proratations established in this regulation, fees are provided of 1.80 cents per pound for the quantity authorized for importation from foreign countries as a group pursuant to section 202(c) (4) of the Act; 0.36 cent per pound for raw sugar authorized from individual foreign countries within quota proratations established pursuant to section 202(c) (3) of the Act; and 0.56 cent per pound for direct-consumption sugar authorized for importation within the limitations established pursuant to section 207(e) (2) of the Act.

The procedures for payment of such fees are established in this regulation. The initial amount of fee to be paid on raw sugar is determined by multiplying the actual pounds to be imported by 1.05 and then by the fee per pound; on direct-consumption sugar, by multiplying the actual pounds by 1.07 and then by the fee per pound. Thus, consideration is given to the fact that the raw value equivalent weight of sugar customarily exceeds the actual weight. Provision is made for final settlement on the basis of the pounds of sugar, raw value, imported multiplied by the fee.

The initial payment of fee must be submitted when an importer makes application for the release of sugar which may be made any time between five days before the expected date of departure of the sugar from the area of origin and the time of its arrival for Customs clearance. To accommodate a variety of sales and shipment agreements provision is made in Part 817 of this chapter for approval of set-aside of quota and fixing the rate of fee as much as 110 days before the departure of the sugar from the area of origin and 155 days before

arrival of the sugar in the continental United States.

Approval of applications for set-aside of quota is subject to a letter of credit to assure the subsequent payment of fees that become due when an application for entry of sugar is made or for the failure to import sugar. On all sugar imported subject to a fee, an applicant is obligated to make payment of the fee at the rate per pound established as applicable at the time (1) an application for set-aside of quota was approved, or in the absence of an approved set-aside application, (2) an authorization for the release of sugar was issued. Subject to tolerances to cover normal loading variations and shipping losses, an importer is obligated to pay the applicable fee on sugar authorized for entry or approved for set-aside but not imported, except when the importation of the sugar is prevented by force majeure or other enumerated reasons.

- 811.10 Sugar requirements, 1963.
- 811.11 Quotas for domestic areas.
- 811.12 [Reserved].
- 811.13 Quotas for foreign countries.
- 811.14 Import fee.
- 811.15 Applicability of quotas.
- 811.16 Restrictions on importations and marketings within quotas.
- 811.17 Procedures and requirements applicable to sugar imported with special consideration to countries purchasing agricultural commodities.

**AUTHORITY:** §§ 811.10 to 811.17 issued under sec. 403, 61 Stat. 932, 7 U.S.C. 1153. Interprets or applies secs. 201, 202, 207, 208, 209, 210; 61 Stat. 923, as amended, 924, as amended, 927, as amended, and 928, as amended, sec. 213 as added by the Act enacted July 13, 1962; 7 U.S.C. 1111, 1112, 1117, 1118, and 1119.

**§ 811.10 Sugar requirements, 1963.**

The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1963 is hereby determined to be 9,800,000 short tons, raw value.

**§ 811.11 Quotas for domestic areas.**

(a) For the calendar year 1963 domestic area quotas limiting the quantities of sugar which may be brought into or marketed for consumption in the continental United States are established, pursuant to section 202(a) of the Act, in column (1) and the amounts of such quotas for offshore areas that may be filled by direct-consumption sugar are established, pursuant to section 207 of the Act, in column (2), as follows:

[Short tons, raw value]

Area	Quotas	Direct-consumption limits
	(1)	(2)
Domestic beet sugar.....	2,698,590	(1)
Mainland cane sugar.....	911,410	(1)
Hawaii.....	1,110,000	33,516
Puerto Rico.....	1,140,000	147,000
Virgin Islands.....	15,000	0

<sup>1</sup> No limit.

(b) Of the quantity established in paragraph (a) of this section for Puerto Rico which may be filled by direct-con-

sumption sugar, 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure.

**§ 811.12 [Reserved]**

**§ 811.13 Quotas for foreign countries.**

(a) The quotas or prorations for foreign countries limiting the quantities of sugar which may be imported into the continental United States during the calendar year 1963 for consumption therein and the amounts of such quotas and prorations that may be filled by direct-consumption sugar are hereby established as set forth in the following paragraphs (b), (c), (d), (e), and (f) of this section. All importations of sugar within the prorations or quantities established in paragraphs (c), (d) and (e) of this section are conditioned upon the payment of a fee as provided in § 811.14.

(b) For the calendar year 1963 the quota for the Republic of the Philippines is 1,050,000 short tons, raw value, and of this quantity of 1,050,000 short tons, raw value, 59,920 short tons, raw value, may be filled by direct-consumption sugar.

(c) (1) For the calendar year 1963 the prorations or allocations for individual foreign countries of the quota for foreign countries other than the Republic of the Philippines pursuant to section 202(c)

(3) of the Act are as follows:

Country:	Short tons, raw value
Peru.....	192,152
Dominican Republic.....	192,152
Mexico.....	192,152
Brazil.....	182,416
British West Indies.....	91,351
Australia.....	40,378
Republic of China.....	35,510
French West Indies.....	30,355
Colombia.....	30,355
Nicaragua.....	25,200
Costa Rica.....	25,200
Ecuador.....	25,200
India.....	20,332
Haiti.....	20,332
Guatemala.....	20,332
South Africa.....	20,332
Panama.....	15,177
El Salvador.....	10,309
Paraguay.....	10,023
British Honduras.....	10,023
Fiji Islands.....	10,023
Ireland.....	10,000
Belgium.....	182

On the basis of information available, it is found that in the calendar year 1962 the aggregate exports of sugar in each case from the United Kingdom, Canada, Hong Kong and the Netherlands to countries other than the United States did not equal or exceed the aggregate imports into each of such countries. Consequently, under the provisions of section 202(e) of the Act, sugar may not be exported from such countries to the United States during 1963 to fill the quota prorations for the calendar year 1963 for the United Kingdom, Canada, Hong Kong and the Netherlands in the respective amounts of 516, 631, 3 and 10,023 short tons, raw value.

(2) For the calendar year 1963 the allocations for foreign countries pursuant to section 202(c) (4) (B) of the Act and the President's Proclamation 3485 are as follows:

Country:	Short tons, raw value
Dominican Republic.....	130,000
Argentina.....	20,000

(d) For the calendar year 1963 the amount of each proration and allocation established in paragraph (c) of this section that may be filled by direct-consumption sugar pursuant to section 207 (e) of the Act is as follows:

Country:	Short tons, raw value
Ireland.....	10,000
Panama.....	3,817
Belgium.....	182

(e) For the calendar year 1963 the quantity of sugar available for authorization for purchase and importation from foreign countries as a group, in addition to the quantities established as the quota for the Republic of the Philippines in paragraph (b) of this section and the quota prorations or allocations for individual foreign countries in paragraph (c) of this section, is 1,504,341 short tons, raw value. Of this total quantity 750,000 short tons, raw value, shall be authorized at this time for purchase and importation from foreign countries as a group on the following basis.

(1) The quantity of 750,000 short tons, raw value, may be authorized for purchase and importation during the period January 1 through May 31, 1963, pursuant to proposals received on or before December 20, 1962, and subsequently accepted as provided for in § 811.17. This quantity is being made available for authorization for purchase and importation for purposes of giving special consideration to those countries purchasing United States agricultural commodities.

(2) Any part of the quantity of 750,000 short tons, raw value, not authorized for purchase and importation pursuant to proposals accepted under paragraph (e) (1) of this section may be authorized for purchase and importation in accordance with the procedures set forth in Part 817 of this chapter.

(3) It is hereby found that the total quantity of 750,000 short tons, raw value, may not be reasonably available as raw sugar to supply our requirements during such period. Accordingly, sugar testing in excess of 99 degrees polarization and raw sugar may be authorized for release within the quantity of 750,000 short tons, raw value, all of such quantity to be further refined or improved in quality in the United States in accordance with the requirements of Part 810 of this chapter. Sugar may be authorized for purchase and importation within the quantity of 750,000 short tons, raw value, established in this paragraph only from countries with which the United States is in diplomatic relations and from countries that had in the calendar year 1962 aggregate exports of sugar to countries other than the United States equal to or in excess of aggregate import.

(f) For the calendar year 1963 the quota for liquid sugar for foreign countries as a group is 2,000,000 gallons of sirup of can juice of the type of Barbados molasses, limited to liquid sugar-containing soluble non-sugar solids (excluding any foreign substance that may

have been added or developed in the product) of more than 5 percent of the total soluble solids, which is not to be used as a component of any direct-consumption sugar but is to be used as molasses without substantial modification of its characteristics after importation.

(g) Quotas or prorations thereof for any foreign country, in subsequent years shall be reduced in accordance with the provisions of paragraph (e) of section 202 of the Act if sugar is imported into the continental United States within the quotas or prorations established in this section in violation of such paragraph (e) of section 202 of the Act.

#### § 811.14 Import fee.

(a) As a condition for the importation of any quantity of sugar within the quantity established for foreign countries as a group in paragraph (e) of § 811.13, a fee of 1.80 cents per pound, raw value, shall be paid as provided in paragraphs (d) and (e) of this section.

(b) As a condition for the importation of any quantity of raw sugar within the quota prorations established for individual foreign countries in paragraph (c) of § 811.13, a fee of 0.36 cent per pound, raw value, shall be paid as provided in paragraphs (d) and (e) of this section.

(c) As a condition for the importation of any quantity of direct-consumption sugar within the limitations provided for in paragraph (d) of § 811.13, a fee of 0.56 cent per pound, raw value, shall be paid as provided in paragraphs (d) and (e) of this section.

(d) The fee per pound as established in paragraphs (a), (b) and (c) of this section shall be subject to change by amendment of the regulations in this part effective when filed for public inspection in the Office of the Federal Register. Payment as provided in paragraphs (e) and (f) of this section with respect to an application for release of sugar shall be based upon the fee per pound effective at the time such application first becomes eligible for authorization as provided in § 817.6(b) of this chapter: *Provided*, That, if the application for authorization for release of sugar is applicable to sugar being imported, under an application for set-aside approved pursuant to § 817.4(e) of this chapter, the payment as provided in paragraphs (e) and (f) of this section with respect to such application for authorization for release of sugar shall be based upon the fee per pound effective at the time such application for set-aside became eligible for approval as provided in § 817.6(b) of this chapter.

(e) The applicable fee established in paragraphs (a), (b) or (c) of this section shall be paid by the person applying to the Secretary for authorization for release of sugar for consumption in the continental United States. With each application submitted as provided in § 817.4 of this chapter covering sugar to be imported within the quota prorations and quantity established in paragraphs (c) and (e) of § 811.13, the applicant shall make an initial payment in an amount determined by multiplying the

quantity of sugar stated in pounds as shown on the application by 1.05 and multiplying the result by the applicable fee per pound as established in paragraph (a) or (b) of this section. With each application submitted as provided in § 817.4 of this chapter covering direct-consumption sugar to be imported within the direct-consumption limitation established in paragraph (d) of § 811.13, the applicant shall make an initial payment in an amount determined by multiplying the quantity of sugar stated in pounds as shown on the application by 1.07 and multiplying the result by the applicable fee per pound as established in paragraph (c) of this section. Upon receipt of such an application and initial payment, the Secretary may issue an authorization for release by a Collector as provided in § 817.6 of this chapter of the quantity of sugar covered by the application. The payment required under this paragraph shall be made in the form of a certified check payable to the Agricultural Stabilization and Conservation Service and submitted to the Sugar Division of such Service. Any application submitted for the purpose of changing the date of departure to a subsequent date of not more than fifteen days after the date stated on the application, the port of departure or the port of arrival in the continental United States, the identity of the vessel or carrier, or the identity of the receiver as shown on the original application shall be considered as an amendment to the original application and no initial payment is required to accompany the amendatory application.

(f) In making final settlement with respect to the initial payment provided for under paragraph (e) of this section, a determination will be made of the quantity of sugar in terms of raw value as provided in § 817.7(c) (2) of this chapter with respect to the quantity imported pursuant to each application for the purpose of ascertaining whether any further payment by the applicant or any refund to the applicant is required. Upon such determination further payment shall be made by the applicant in the amount by which the product of the quantity of sugar, raw value, imported multiplied by the applicable fee per pound provided for in paragraph (a), (b), or (c) and in paragraph (d) of this section, exceeds the amount of the initial payment made pursuant to paragraph (e) of this section: *Provided, however*, That, if all or any part of the quantity of sugar which has been authorized for release is not imported into the United States other than for reasons of force majeure, disasters at sea, acts of God, or strikes so extensive and of such duration as to preclude importation, no refund will be made of the amount of the initial payment applicable to the quantity not imported as represented by the difference between the authorized quantity reduced by 10 per centum (to cover normal shipping losses and normal loading variations) and the quantity imported (commercial weight): *Provided, further*, That, upon submission of evidence satisfactory to the Secretary that due to force majeure,

acts of God, or strike, which precluded exportation of sugar, departure of the shipment or cargo of sugar has been delayed more than 15 days beyond the date of departure stated on the application for authorization for release of sugar, the authorization will be canceled and the initial payment made pursuant to paragraph (e) of this section with respect to the application will be refunded to the applicant.

#### § 811.15 Applicability of quotas.

All sugar and liquid sugar marketed or imported into the continental United States is subject to the provisions of Part 816 or Part 817 of this chapter which prescribe the time, manner and conditions under which quotas, prorations, or quantities made available to countries as a group are filled by the marketing and importation of sugar or liquid sugar. The quantitative limitations established by §§ 811.11 to 811.13, inclusive, do not apply to sugar or liquid sugar marketed or imported pursuant to sections 211 and 212 of the Act in accordance with the provisions of Part 816 or Part 817 of this chapter.

#### § 811.16 Restrictions on importations and marketings within quotas.

Subject to the provisions of Part 816 and Part 817 of this chapter all persons are prohibited from bringing or importing into or marketing in the continental United States any sugar or liquid sugar in excess of or after the applicable quota or quantity set forth in §§ 811.11 to 811.13, inclusive, has been filled, or any sugar or liquid sugar as direct-consumption sugar after the direct-consumption portion of the applicable quota has been filled.

#### § 811.17 Procedures and requirements applicable to sugar imported with special consideration to countries purchasing United States agricultural commodities.

(a) This section sets forth the procedures to be followed and requirements to be met for purposes of giving special consideration to foreign countries purchasing United States agricultural products in connection with authorizing sugar for importation into the continental United States pursuant to paragraph (e) of § 811.13.

(b) A representative authorized by and acting on behalf of the Government of a foreign country desiring special consideration in accordance with paragraph (a) of this section, shall offer a proposal in writing to the Sugar Division, Agricultural Stabilization and Conservation Service, Washington 25, D.C., which shall be received on or before the date for submission of such proposals as specified in paragraph (e) of § 811.13 and shall include in substance the following information and commitments:

(1) The quantity of raw sugar proposed for importation into the United States indicating the minimum and maximum quantities expected to be imported by month of its importation, and stating in the proposal that such sugar is to be imported pursuant to § 811.13(e) and subject to the import fee established under § 811.14(a);

(2) The latest date the country's proposal may be accepted in whole or in part;

(3) A statement that the country will agree to use for the purchase and export of United States agricultural commodities prior to December 31, 1963, the percentage stated in the proposal, of the net receipts f.a.s. port of shipment, derived from the sale of sugar covered by the proposal and that on or before a date specified in the agreement, it will certify to the Government of the United States that an amount equivalent to the percentage stated in the proposal of the net receipts derived from the sale of sugar has been used for the purchase and export of United States agricultural commodities prior to December 31, 1963.

(4) A statement that the country will agree that the agricultural commodities purchased will be consumed solely within the country or geographical area thereof.

(c) The representatives of foreign countries submitting proposals found acceptable by the Secretary will be notified of the acceptance, in whole or in part; and agreements shall thereafter be entered into by the Governments of the respective foreign countries with the Government of the United States which agreements shall give effect to each proposal in accordance with the acceptance. Upon the acceptance by the Secretary of proposals made in accordance with the requirements of this section, authorizations for importation will be issued and set-asides will be approved in accordance with the provisions of Part 817 of this chapter for the quantities of sugar covered by the Agreements.

Issued at Washington, D.C., this 27th day of November 1962.

CHARLES S. MURPHY,  
*Acting Secretary.*

[F.R. Doc. 62-11880; Filed, Nov. 30, 1962; 8:47 a.m.]

## CIVIL AERONAUTICS BOARD

[ 14 CFR Part 221 ]

[Docket No. 14035]

### CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

#### Supplemental Notice of Proposed Rule Making

NOVEMBER 27, 1962.

The Board, in 27 F.R. 9456 and by circulation of a notice of proposed rule making, EDR-46, PDR-20, and PSDR-5 dated September 19, 1962, gave notice that it had under consideration proposed new and amended rules and a new policy statement which are designed to expedite the processing of tariff proposals and to provide more realistic notice to air travelers of tariff changes between the time a ticket is purchased and actual transportation is to begin. In EDR-46A, 27 F.R. 10331, the date for filing comments was extended to November 13, 1962, and in EDR-46B, 27 F.R. 11239,

the time was further extended to November 23, 1962.

Requests have been received that the time for filing comments be extended to January 7, 1963, with respect to the proposal to amend § 221.165 of Part 221, which would require that with every tariff publication a transmittal letter be submitted setting forth certain specific information and economic data. It appears to the undersigned that good cause has been shown for so extending the time for filing comments on this proposal.

Accordingly, pursuant to authority delegated under section 7.3C of Public Notice PN-15, the undersigned hereby extends the date for submitting comments on the proposal to amend § 221.165 until January 7, 1963. All relevant matter in communications received on or before this date will be considered by the Board before taking final action on this proposal. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof. This action does not extend the time for comments on any other proposal in EDR-46.

[SEAL] ARTHUR H. SIMMS,  
*Associate General Counsel,  
Rules and Special Counsel Division.*

[F.R. Doc. 62-11893; Filed, Nov. 30, 1962; 8:49 a.m.]

## FEDERAL AVIATION AGENCY

[ 14 CFR Parts 600, 601, 602 ]

[Airspace Docket No. 61-LA-76]

### FEDERAL AIRWAYS, CONTROL AREAS, REPORTING POINTS AND JET ROUTES

#### Proposed Alterations, Revocations, and Designations

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.65), notice is hereby given that the Federal Aviation Agency is considering amendments to Parts 600, 601 and 602 of the Regulations of the Administrator (Part 71 [New] of the Federal Aviation Regulations, effective December 12, 1962, 27 F.R. 10352), which would alter the airway structure in the vicinity of Las Vegas, Nev. The proposed actions would utilize the Boulder, Nev., VOR to be commissioned at latitude 35°59'45" N., longitude 114°51'47" W., on or about November 15, 1962, to provide a more efficient air route structure for the Las Vegas terminal area traffic control procedures and provide by-pass airways and jet routes for the Las Vegas area. The proposed actions are as follows:

1. Low altitude VOR Federal airway No. 21 is designated in part from the Ontario, Calif., VOR to the Hector, Calif., VORTAC and from the intersection of the Las Vegas, Nev., VORTAC 210° and the Goffs, Calif., VOR 232° True radials via the Las Vegas VORTAC to the Mormon Mesa, Nev., VORTAC,

including an east alternate via the intersection of the Las Vegas VORTAC 081° True radial with the Needles, Calif., VORTAC direct radial to the Mormon Mesa VORTAC. Intermediate altitude VOR Federal airway No. 1547 is designated in part as a 10-mile wide airway from the Hector VOR via the intersection of the Hector VOR 049° and the Las Vegas VOR 210° True radials; Las Vegas VOR to the Mormon Mesa VOR. It is proposed to redesignate Victor 21 north-eastward from the Hector VORTAC via the Boulder VOR to the Mormon Mesa VORTAC (12-mile wide airway from 45 nautical miles northeast of the Hector VORTAC to 45 nautical miles southwest of the Boulder VOR) and revoke Victor 21 east alternate between Las Vegas VORTAC and the Mormon Mesa VORTAC and designate a west alternate to Victor 21 from the intersection of the Hector VORTAC 228° and the Daggett, Calif., VORTAC 187° True radials via the Daggett VORTAC to the intersection of the Daggett VORTAC 062° and the Hector VORTAC 047° True radials. In addition, the segment of Victor 1547 would be redesignated as a 12-mile wide airway from the Hector VOR to the Boulder VOR thence as a 10-mile wide airway to the Mormon Mesa VOR.

2. Low altitude VOR Federal airway No. 105 is designated in part from the Prescott, Ariz., VORTAC to the Las Vegas VORTAC, including an east alternate from the Prescott VORTAC via the Drake, Ariz., VOR; Peach Springs, Ariz., VORTAC; intersection of the Peach Springs VORTAC 293° and the Las Vegas VORTAC 106° True radials to the Las Vegas VORTAC. Intermediate altitude VOR Federal airway No. 1748 is designated as a 16-mile wide airway from the Las Vegas VOR to the Prescott VOR. Intermediate altitude VOR Federal airway No. 1776 extends in part from the Las Vegas VOR via the intersection of the Las Vegas VOR 106° and the Peach Springs VOR 293° True radials to the Peach Springs VOR. It is proposed to redesignate this segment of Victor 105 from the Prescott VORTAC via the Boulder VOR to the Las Vegas VORTAC (12-mile wide airway from 45 nautical miles to 55 nautical miles northwest of the Prescott VORTAC; thence 14-mile wide airway to 55 nautical miles southeast of the Boulder VOR), including an east alternate from the Prescott VORTAC via the Drake VOR; Peach Springs VORTAC; intersection of the Peach Springs VORTAC 305° and the Las Vegas VORTAC 081° True radials; to the Las Vegas VORTAC (12-mile wide airway from 45 nautical miles to 55 nautical miles northwest of the Peach Springs VORTAC; thence 14-mile wide airway to the intersection of the Peach Springs 305° and Las Vegas 081° True radials). Also Intermediate altitude VOR Federal airway No. 1748 would be redesignated from the Prescott VOR as a 16-mile wide airway to the intersection of Goffs VOR 048° and the Boulder VOR 123° True radials; thence as a 10-mile wide airway via Boulder VOR to the Las Vegas VOR. The segment of Victor

1776 would be redesignated as a 10-mile wide airway from the Las Vegas VOR to the intersection of the Las Vegas VOR 081° and the Peach Springs VOR 305° True radials thence as a 16-mile wide airway to the Peach Springs VOR.

3. Low altitude VOR Federal airway No. 237 is designated from the Needles VORTAC to the Mormon Mesa VORTAC. Intermediate altitude VOR Federal airway No. 1619 extends as a 16-mile wide airway from Needles VOR to the Mormon Mesa VOR. It is proposed to redesignate Victor 237 from the Needles VORTAC via the intersection of the Needles VORTAC 356° and the Mormon Mesa VORTAC 195° True radials to the Mormon Mesa VORTAC (12-mile wide airway from 45 nautical miles to 55 nautical miles north of the Needles VORTAC; 14-mile wide airway to 55 nautical miles south southwest of the Mormon Mesa VORTAC; 12-mile wide airway to 45 nautical miles south southwest of the Mormon Mesa VORTAC). Victor 1619 would be redesignated as a 14-mile wide airway from the Needles VOR to the intersection of the Needles VOR 356° and the Mormon Mesa VOR 195° True radials, thence as a 12-mile wide airway to the Mormon Mesa VOR.

4. Low altitude VOR Federal airway No. 8 extends in part from the Goffs VOR via the intersection of the Goffs VOR 030° and the Mormon Mesa VORTAC 200° True radials; to the Mormon Mesa VORTAC. VOR Federal airway No. 8 north alternate extends in part from the Las Vegas VORTAC to the Mormon Mesa VORTAC. Intermediate altitude VOR Federal airway No. 1549 extends in part as a 16-mile wide airway from the Goffs VOR to the Mormon Mesa VOR.

It is proposed to redesignate this segment of Victor 8 from the Goffs VOR via the intersection of the Goffs VOR 033° and the Mormon Mesa VORTAC 195° True radials to the Mormon Mesa VORTAC (12-mile wide airway from 45 nautical miles northeast of the Goffs VOR to the intersection of the Goffs VOR 033° and the Mormon Mesa VORTAC 195° True radials, thence as a 14-mile wide airway to a point 55 nautical miles south southwest of the Mormon Mesa VORTAC). Victor 8 north alternate would be redesignated in part from the Las Vegas VORTAC via the intersection of the Las Vegas VORTAC 045° and the Mormon Mesa VORTAC 227° True radials to the Mormon Mesa VORTAC. The segment of Victor 1549 would be redesignated from the Goffs VOR as a 12-mile wide airway via the intersection of the Goffs VOR 033° and the Mormon Mesa VOR 195° True radials to the Mormon Mesa VOR.

5. Low altitude VOR Federal airway No. 135 extends, in part, from the Needles VORTAC to Las Vegas VORTAC. It is proposed to redesignate this segment of Victor 135 from the Needles VORTAC via the Goffs VOR to the Las Vegas VORTAC.

6. Intermediate altitude VOR Federal airway No. 1617 extends in part from the Needles VOR to the Las Vegas VOR. It is proposed to revoke this segment of Victor 1617.

7. Intermediate altitude VOR Federal airway No. 1522 extends in part as a 10-mile wide airway from the Las Vegas VOR to the Mormon Mesa VOR. It is proposed to redesignate this segment of Victor 1522 as a 10-mile wide airway from the Las Vegas VOR via the intersection of the Las Vegas VOR 045° and the Mormon Mesa VOR 227° True radials to the Mormon Mesa VOR.

8. Low altitude VOR Federal airway No. 245 extends from the Goffs VOR to the Las Vegas VORTAC. It is proposed to revoke this airway segment and its associated control areas.

9. Low altitude VOR Federal airway No. 117 extends in part from the intersection of the Hector VORTAC 228° and the Daggett VORTAC 187° True radials to the Daggett VORTAC. It is proposed to revoke this segment of Victor 117 and its associated control areas.

10. Jet Routes Nos. 9 and 107 extend in part from the Hector VOR via the Las Vegas VOR to the Milford, Utah, VOR. It is proposed to redesignate these segments of Jet Routes Nos. 9 and 107 from the Hector VOR via the Boulder VOR to Milford VOR.

11. Jet Route No. 60 extends in part from the Hector VOR via the Las Vegas VOR to Bryce Canyon, Utah, VOR. It is proposed to redesignate this segment of Jet Route No. 60 from Hector VOR via the Boulder VOR to the Bryce Canyon VOR.

12. Jet Route No. 92 extends in part from the Beatty, Nev., VOR via the intersection of the Beatty VOR 142° and the Las Vegas VOR 266° True radials to the Las Vegas VOR, and from the Las Vegas VOR as a common segment with Jet Route No. 44 direct to the Prescott VOR. It is proposed to revoke Jet Route No. 44 and redesignate the segment of Jet Route No. 92 from the Beatty VOR via the intersection of the Beatty VOR 142° and the Boulder VOR 272° True radials; Boulder VOR to the Prescott VOR.

13. Designate Boulder VOR as a compulsory reporting point for Victors 21, 1547, 1748 and Jet Routes Nos. 9, 60, 92 and 107.

14. The Lake Mead, Nev., transition area (§ 601.10918) is designated as that airspace extending upward from 1,200 feet above the surface within 8 miles east and 12 miles west of the Mormon Mesa, Nev., VORTAC 185° radial extending from 10 miles south to 22 miles north of the intersection of Mormon Mesa VORTAC 185° and the Las Vegas, Nev., VORTAC 081° radials; and the airspace southwest of the Mead Intersection bounded on the north by VOR Federal airway No. 21 east alternate, on the east by VOR Federal airway No. 237, and on the south by VOR Federal airway No. 105 east alternate. It is proposed to redesignate the Lake Mead Transition area as that airspace extending upward from 1,200 feet above the surface within 8 miles east and 12 miles west of the Mor-

mon Mesa VORTAC 195° True radial extending from 10 miles south to 22 miles north of the intersection of the Mormon Mesa VORTAC 195° and the Las Vegas VORTAC 081° True radials. This would realign the transition area to coincide with the proposed airway structure.

15. Revoke the Tipton Intersection, low altitude reporting point contained in § 601.4101.

The proposed increased airway widths to the segments of Victors 8, 21, 105, 105 east and 237 would assure adequate lateral protection for aircraft operating at maximum distance from widely separated navigational aids, where minute errors either in ground or airborne equipment, could result in more than 5 statute miles deviation from the airway or route centerline. The reduced airway widths proposed for the segments of Victors 1522, 1547, 1549, 1619, 1748 and 1776 would provide required lateral separation between aircraft operating along these airway segments and aircraft operating along parallel segments of adjacent airways in the intermediate altitude airway structure.

The Jet Advisory areas associated with Jet Routes Nos. 9, 60, 92 and 107 are so designated that they will automatically conform to the altered routes. The control area associated with the segments of low altitude VOR Federal airways proposed herein would extend upward from 700 feet above the surface to the base of the continental control area. Separate actions will be initiated to implement on an area basis Amendment 60-21 to Part 60 of the Civil Air Regulations.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 9, Calif. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on November 26, 1962.

CLIFFORD P. BURTON,  
Chief, Airspace Utilization Division.

[F.R. Doc. 62-11872; Filed, Nov. 30, 1962;  
8:45 a.m.]

#### [ 14 CFR Part 601 ]

[Airspace Docket No. 62-AL-14]

### CONTROLLED AIRSPACE

#### Proposed Designation of Control Zone and Transition Area

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.65), notice is hereby given that the Federal Aviation Agency is considering amendments to Part 601 of the regulations of the Administrator (Part 71 [New] of the Federal Aviation Regulations, effective December 12, 1962, 27 F.R. 10352), the substance of which is stated below.

Effective January 10, 1963 (Airspace Docket No. 60-AN-33, 26 F.R. 1715 and 27 F.R. 4013), Blue Federal airway No. 26 and its associated control areas will be extended from the Fairbanks, Alaska, radio range to a radio beacon to become operational on or about January 10, 1963 near the Fort Yukon, Alaska, Municipal Airport at latitude 66°34'47" N., longitude 145°12'46" W. The configuration of the control areas associated with this airway will not offer complete protection for proposed instrument approach, departure and holding procedures at the Fort Yukon Municipal Airport. Therefore, the Federal Aviation Agency has under consideration the following actions:

1. The designation of a part-time control zone at Fort Yukon, within a 5-mile radius of the Fort Yukon Municipal Airport (latitude 66°34'15" N., longitude 145°15'10" W.) and within 2 miles either side of the 062° True bearing from the Fort Yukon radio beacon extending from the 5-mile radius zone to 8 miles north-east of the radio beacon, from 0745 to 1645 hours local time, daily.

Communications and weather reporting service would be provided aircraft operating within the proposed control zone by the FAA's Fort Yukon Flight Service Station which operates on a part-time basis.

2. The designation of a transition area at Fort Yukon to extend upward from 700 feet above the surface within a 5-mile radius of the Fort Yukon Municipal Airport (latitude 66°34'15" N., longitude 145°15'10" W.); within 2 miles either side of the 062° True bearing from the Fort Yukon radio beacon extending from the 5-mile radius area to 8 miles north-east of the radio beacon; and extending upward from 1,200 feet above the surface within 5 miles southeast and 8 miles northwest of the 062° and 242° True bearings from the Fort Yukon radio beacon extending from 7 miles southwest to 13 miles northeast of the radio beacon.

The portion of the proposed transition area extending upward from 700 feet

above the surface would provide protection for aircraft executing proposed instrument approach and departure procedures at Fort Yukon Municipal Airport during the periods of time the Fort Yukon control zone is not effective. The portion extending upward from 1,200 feet above the surface would provide protection for aircraft executing a proposed holding procedure based on the Fort Yukon radio beacon.

Communications would be provided aircraft operating within the proposed transition area by the Fort Yukon Flight Service Station augmented by the Fairbanks, Alaska, Air Route Traffic Control Center's Fort Yukon peripheral communications facility scheduled to be commissioned November 1, 1962.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Alaskan Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on November 26, 1962.

CLIFFORD P. BURTON,  
Chief, Airspace Utilization Division.

[F.R. Doc. 62-11873; Filed, Nov. 30, 1962;  
8:45 a.m.]

#### [ 14 CFR Part 602 ]

[Airspace Docket No. 61-LA-64]

### JET ROUTES AND JET ADVISORY AREAS

#### Proposed Alteration and Designation

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.65) notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to Part 602 of the regulations of the Administrator (Part 75 [New] of the Federal Aviation Regula-

tions, effective December 12, 1962, 27 F.R. 10352), the substance of which is stated below.

The FAA has under consideration the alteration, designation, and revocation of jet routes and jet advisory areas in the vicinity of Portland, Oreg., as follows:

1. Revoke Jet Route No. 93 and its associated jet advisory area from Newport, Oreg., to Seattle, Wash.

2. Realign the segment of Jet Route No. 1 and its associated jet advisory area from the Medford, Oreg., VORTAC to the Seattle VORTAC via the Newberg, Oreg., VORTAC and the intersection of the Newberg VORTAC 009° and the Seattle VORTAC 197° True radials.

3. Extend Jet Route No. 15 from the Boise, Idaho, VORTAC to the Newberg VORTAC via the intersection of the Boise VORTAC 294° and the Newberg VORTAC 106° True radials (site of the John Day, Oreg., VOR); designate a non-radar jet advisory area from flight level 270 to flight level 310 inclusive, and from flight level 370 to flight level 390 inclusive, within 16 statute miles either side of the proposed segment of J-15 from the Boise VORTAC to the intersection of the Boise VORTAC 294° and the Newberg VORTAC 106° True radials; and designate a radar jet advisory area from flight level 240 to flight level 390 inclusive, within 16 statute miles either side of the proposed segment of J-15 from the intersection of the Boise VORTAC 294° and the Newberg VORTAC 106° True radials to the Newberg VORTAC.

4. Designate a new jet route from the Boise VORTAC to The Dalles, Oreg., VORTAC via the intersection of the Boise VORTAC 294° and The Dalles VORTAC 139° True radials (site of the John Day VOR); designate a non-radar jet advisory area, as stated above, on the segment of this proposed jet route from the intersection of the Boise VORTAC 294° and The Dalles VORTAC 139° True radials; and designate a radar jet advisory area on the segment of this proposed jet route from the intersection of the Boise VORTAC 294° and The Dalles VORTAC 139° True radials to The Dalles VORTAC.

5. Realign and extend Jet Route No. 16 and its associated en route jet advisory area from the Pendleton, Oreg., VORTAC via the intersection of the Pendleton VORTAC 254° and The Dalles VORTAC 096° True radials; The Dalles VORTAC; the intersection of The Dalles VORTAC 276° and the Newberg VORTAC 035° True radials (site of the Portland VORTAC); the Newberg VORTAC; to the intersection of the Newberg VORTAC 225° and the Medford VORTAC 339° True radials (site of the Newport VOR).

6. Redescribe the starting point for Jet Route No. 70 as the intersection of the Newberg VORTAC 333° and the Seattle VORTAC 247° True radials (site of the Hoquiam, Wash., VOR).

The actions as proposed above would provide more direct routes between the Portland International Airport and the Boise VORTAC for aircraft operating between Portland and the Salt Lake City, Utah, and Denver, Colo., areas;

would cause the jet routes to overlie existing low and intermediate altitude airways which would simplify transitioning to and from the jet route structure for arriving and departing jet aircraft in the Portland area; and would transfer the jet route structure from the Portland VORTAC to the Newberg VORTAC to avoid the necessity for having two VORTAC's with high altitude service volume category in the vicinity of Portland. Additionally, the Boise long range radar will be commissioned approximately July 1963. Action will be taken to convert the non-radar jet advisory areas in the vicinity of Boise to radar jet advisory areas concurrently with the commissioning of this radar.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 9, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C. on November 26, 1962.

CLIFFORD P. BURTON,

Chief, Airspace Utilization Division.

[F.R. Doc. 62-11869; Filed, Nov. 30, 1962; 8:45 a.m.]

### [ 14 CFR Part 602 ]

[Airspace Docket No. 62-WA-84]

## JET ROUTES AND JET ADVISORY AREAS

### Proposed Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.65),

notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to Part 602 of the regulations of the Administrator (Part 75 [New] of the Federal Aviation Regulations, effective December 12, 1962, 27 F.R. 10352), the substance of which is stated below.

Jet Route No. 13 presently extends from El Paso, Tex., to Great Falls, Mont. The segment of J-13 between Albuquerque, N. Mex., and Denver, Colo., has an associated radar jet advisory area. The FAA has under consideration the extension of J-13 to the United States/Canadian Border on a direct radial between the Great Falls VOR and the Lethbridge, Canada, VOR. In addition, it is proposed to designate an en route radar jet advisory area along the entire length of J-13 within 16 statute miles either side of the route from flight level 240 to flight level 390, inclusive, except between Crazy Woman, Wyo., and Billings, Mont., on which segment a floor of flight level 270 would be established.

Jet Route No. 13, with the proposed extension, would provide a more direct route through the United States for aircraft operating between Calgary, Canada, and Mexico City, Mex. The designation of the proposed en route jet advisory area would provide a defined area wherein jet advisory service would be provided to civil turbojet air carrier aircraft while operating between Calgary and Mexico City.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on November 26, 1962.

CLIFFORD P. BURTON,

Chief, Airspace Utilization Division.

[F.R. Doc. 62-11870; Filed, Nov. 30, 1962; 8:45 a.m.]

### [ 14 CFR Part 602 ]

[Airspace Docket No. 62-WE-116]

## JET ROUTES AND JET ADVISORY AREAS

### Proposed Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.65), notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to Part 602 of the regulations of the Administrator (Part 75 [New] of the Federal Aviation Regulations, effective December 12, 1962, 27 F.R. 10352), the substance of which is stated below.

Jet Route No. 30 presently extends from the Denver, Colo., VORTAC to the Appleton, Ohio, VORTAC. Its associated jet advisory area extends eastward to Joliet, Ill. The FAA has under consideration the extension of J-30 and its associated jet advisory area westward from Denver via the Kremmling, Colo., VORTAC, the Myton, Utah, VOR and the Provo, Utah, VOR to the Salt Lake City, Utah, VORTAC.

The proposed extension of J-30 would provide altitudes between flight level 240 and flight level 270 which are not now available on Jet Route No. 56 due to a lack of signal coverage. Additionally, the proposed extension would overlie intermediate and low altitude structures thereby facilitating transition between structures for flights between Salt Lake City and Denver. The radar jet advisory area proposed herein would provide a defined area along the route wherein jet advisory service would be available.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 9, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available

**PROPOSED RULE MAKING**

for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C. on November 26, 1962.

**CLIFFORD P. BURTON,**  
*Chief, Airspace Utilization Division.*

[F.R. Doc. 62-11871; Filed, Nov. 30, 1962;  
8:45 a.m.]

**DEPARTMENT OF HEALTH, EDU-  
CATION, AND WELFARE**

**Food and Drug Administration**

**[ 21 CFR Part 121 ]**

**FOOD ADDITIVES**

**Notice of Filing of Petition**

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition (FAP 991) has been filed by Monsanto Chemical Company, 800 North Lindbergh Boulevard, St. Louis 66, Missouri, proposing amendment of § 121.2520 *Adhesives* by adding to paragraph (c) (5) the item "4,4'-Butylidenebis(6-tert-butyl-*m*-cresol)."

Dated: November 27, 1962.

**J. K. KIRK,**  
*Assistant Commissioner  
of Food and Drugs.*

[F.R. Doc. 62-11885; Filed, Nov. 30, 1962;  
8:48 a.m.]

# Notices

## DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3-a]

### PORTLAND CEMENT FROM NORWAY Fair Value Determination

NOVEMBER 27, 1962.

A complaint was received that portland cement, other than white, nonstaining portland cement, from Norway is being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that portland cement, other than white, nonstaining portland cement, from Norway is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

*Statement of reasons.* It was determined on the basis of the information available that for fair value purposes the purchase price should be compared with the home market price in Norway for ship-sale quantities. In the period covered by the complaint, only bulk shipments were made to the United States. Accordingly, the comparison was made on an unpacked, ex-mill basis.

Purchase price was calculated by the deduction of ocean freight and loading and trimming from the C&F invoice prices.

Home market price was calculated by the deduction of cash discount, annual rebate, loading and trimming, freight and insurance, and unloading. Due allowance was made for technical assistance and interest loss actually incurred on sales involving a cash discount. Reasonable allowance was made to adjust the home market price for the difference between the smaller quantities sold for home consumption and the larger quantities sold to the United States. An addition to home market price was made to account for the difference by which a selling commission for export exceeded home market selling expenses.

Purchase price was found to be slightly lower than adjusted home market price. As soon as the manufacturer was advised of this, he revised his pricing so as to eliminate the margin and gave assurance that future pricing would be watched to prevent a recurrence of this circumstance.

The amount involved during the period in which the margin existed was not more than insignificant.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] JAMES POMEROY HENDRICK,  
*Acting Assistant  
Secretary of the Treasury.*

[F.R. Doc. 62-11891; Filed, Nov. 30, 1962;  
8:49 a.m.]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-16]

### POWER REACTOR DEVELOPMENT CO.

#### Order Postponing and Setting New Date for Hearing

In the matter of Power Reactor Development Company, on application for provisional operating license; Docket No. 50-16.

On November 26, 1962 a prehearing conference was convened in this proceeding to consider certain matters proposed for consideration in a motion filed by Power Reactor Development Company (PRDC), as well as other matters as were appropriate and in accordance with the rules of practice of the Commission. At said prehearing conference, persons who were interveners<sup>1</sup> in the related proceedings pertaining to the construction permit issued to PRDC, presented an oral motion for a postponement of two weeks<sup>2</sup> of the hearing scheduled by the Commission to convene on December 11, 1962. The said interveners asserted in support of their motion that since the date of the issuance of the Notice of Hearing by the Commission on November 9, 1962 (published November 10, 1962 at 27 F.R. 11025), PRDC and the Staff had served copies of voluminous records and documents setting forth the analyses and reports of various kinds pertaining to the PRDC nuclear utilization facility. The said interveners further asserted that the time interval between the service of these documents and the scheduled date for hearing was insufficient to permit complete study and evaluation of these submissions by PRDC and the Staff. PRDC, in response to said motion, proposed that certain evidence be received on the scheduled date of hearing, and if cross-examination could not be completed that a postponement be made to another date.

Upon a consideration of the record prepared to date in this proceeding, and the motion and contentions concerning a requested postponement of the hearing in order to complete adequate preparation for hearing,

The Atomic Safety and Licensing Board for this proceeding finds: Good cause has been shown for a postponement of the hearing scheduled by the Commission to convene on December 11, 1962,

<sup>1</sup> These interveners were generally described at the prehearing conference as UAW, IUE and Paper Makers. These organizations are more fully identified in the construction permit proceedings as United Automobile Workers of America, International Union, United Paper Workers of America.

<sup>2</sup> Upon a computation of time in accordance with the requested two-weeks postponement, which indicated that, the proposed convening date would be Christmas Day, the said interveners amended their motion for "in effect" a three-weeks postponement.

Wherefore: *It is ordered*, by the Atomic Safety and Licensing Board for this proceeding, in accordance with the Atomic Energy Act of 1954, as amended, and the rules of practice of the Commission: The hearing in this proceeding, as scheduled by the Commission in its Notice of Hearing issued on November 9, 1962, is postponed, and shall convene at 9:00 a.m. on Thursday, January 3, 1963, in the Auditorium of the Atomic Energy Commission Headquarters in Germantown, Maryland, for the purposes stated and to consider the issues and matters prescribed by the Commission in its said Notice of Hearing.

Issued: November 27, 1962, Germantown, Md.

Atomic Safety and Licensing Board appointed for this proceeding.

SAMUEL W. JENSCH,  
*Chairman.*

[F.R. Doc. 62-11879; Filed, Nov. 30, 1962;  
8:47 a.m.]

## CIVIL AERONAUTICS BOARD

[Docket 14178, Order No. E-19042]

### EASTERN AIR LINES, INC.

#### Proposed Increased Fares to Orlando, Fla.; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of November 1962.

Eastern Air Lines, Inc., has filed tariff revisions marked to become effective December 1, 1962, for the purpose of increasing (1) its jet first class fares between Orlando, Florida and Atlanta and Chicago, and (2) its jet day coach fares between Orlando, Florida, on the one hand, and Atlanta, Chicago, and Louisville, on the other. The fare increases range from 3.2 to 8.5 percent.

The Board, upon consideration of the proposed tariff revisions, finds that the proposed fares may be unjust and unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated.

Eastern has supplied no information as to the theory or basis of the increases in first class and day coach fares proposed in these particular markets here under consideration, nor has the Board been furnished any factual basis why Eastern should be distinguished from other trunk carriers in evaluating fare increases. Moreover, the proposed increases in coach fares would decrease the differential between jet first class and coach fares in some markets but the carrier has advanced no support for such decrease in fare relationship. Under these circumstances, the Board has concluded that the instant tariff

amendments should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a), 403, 404, and 1002 thereof; *it is ordered:*

1. That an investigation be instituted to determine whether the fares and routings between Orlando, on the one hand, and Atlanta and Chicago, on the other, on 26th Revised Page 131 and on 6th Revised Page 152-C, and the fare and routing between Louisville and Orlando on 9th and 10th Revised Pages 152-E of Agent C. C. Squire's C.A.B. No. 44 are, or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and routings;

2. That pending investigation, hearing, and decision by the Board, the fares and routings between Orlando, on the one hand, and Atlanta and Chicago, on the other, on 26th Revised Page 131 and on 6th Revised Page 152-C, and the fare and routing between Louisville and Orlando on 9th and 10th Revised Pages 152-E of Agent C. C. Squire's C.A.B. No. 44 are suspended and their use deferred to and including February 28, 1963, unless otherwise ordered by the Board and that no changes be made therein during the period of suspension except by order or special permission of the Board.

3. That this investigation be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

4. That a copy of this order be filed with the aforesaid tariff and be served upon Eastern Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,  
Secretary.

[F.R. Doc. 62-11894; Filed, Nov. 30, 1962;  
8:49 a.m.]

[Docket No. 14150; Order No. E-19041]

### FRONTIER AIRLINES, INC.

#### Proposed Two-Hour Go-Show Fares; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of November 1962.

Frontier Airlines, Inc., has filed a tariff<sup>1</sup> marked to become effective December 1, 1962, for the purpose of establishing one-way Two-Hour Go-Show fares between Denver, Colorado, on the one hand and Phoenix and Tucson, Arizona on the other. Tickets will be valid for ten days from the date of sale. The tariff provides that a passenger must present himself at the airport ticket counter within two hours before scheduled departure time, and if space is

available to his desired destination, Frontier will sell a ticket and make a regular reservation. A free baggage allowance of 40 pounds will be allowed. The tariff is marked to expire May 31, 1963.

A complaint against the proposed fares has been filed by Western. The complaint alleges that the proposed fares will debase the fare structure for all the carriers in the area; that the proposed tariff is designed to divert traffic from Western; that since the diversion from automobiles, buses, and trains to air travel in those markets has largely been completed, the tariff will not generate any substantial volume of new traffic; that the Denver-Phoenix market is not an appropriate one in which to offer a stand-by fare; that the Denver-Phoenix proposed fare of \$30.00 is below cost; that the proposed tariff will produce many fictitious reservations and encourage other undesirable practices; and that the tariff violates section 404(a) of the Act.

In support of its proposal Frontier states that the Denver-Tucson and the Denver-Phoenix markets have considerable space available for sale; that the tariff will generate new business, particularly from private automobile and bus travelers; that diversion from the present traffic would be minimal; that the proposal will save reservation costs and other costs; that the possibility of no-shows would be practically eliminated; that the proposed fares are in line with those found reasonable by the Board in other cases; and that in any event the fares will produce revenues far in excess of the actual costs of providing this service.

The Board, upon consideration of the proposed tariff and complaint with respect thereto, finds that the proposed fares may be unjust and unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. There is substantial question as to the economic validity of the proposed fares when viewed from the standpoint of their relationship to existing fares and cost savings to be achieved. Moreover, it appears that the proposed tariff, by providing a firm reservation two hours before departure time introduces a feature which differentiates it from existing no-reservation tariffs of other carriers, and which may have a serious diversionary impact on traffic presently carried in those markets. Therefore, in these circumstances, we will suspend the operation at the proposed tariff and defer its use pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a), 403, 404, and 1002 thereof; *it is ordered:*

1. That an investigation be, and hereby is, instituted to determine if the fares and provisions in Frontier Airlines, Inc.'s C.A.B. No. 31 are, or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fare.

2. That pending investigation, hearing, and decision by the Board, Frontier Airlines, Inc.'s C.A.B. No. 31 is suspended and its use deferred to and including February 28, 1963, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board.

3. That except as granted herein the complaint in Docket 14150 is dismissed.

4. That this investigation be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

5. That a copy of this order be filed with the aforesaid tariff and be served upon Frontier Air Lines, Inc., and Western Air Lines, Inc., which are made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,  
Secretary.

[F.R. Doc. 62-11895; Filed, Nov. 30, 1962;  
8:50 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14863; FCC 62-1215]

### LOCAL TELEVISION PROGRAMMING IN OMAHA, NEBR.

#### Notice of Inquiry

1. In our Notice of Inquiry in In the Matter of Inquiry Into Local Television Programming in Chicago, Illinois (Docket No. 14546, FCC 62-224, Mimeo No. 162333), we cited that part of our en banc Programming Inquiry Report (20 Pike and Fischer RR 1902) which states:

In the fulfillment of his obligation the broadcaster should consider the tastes, needs and desires of the public he is licensed to serve in developing his programming and should exercise conscientious efforts not only to ascertain them but also to carry them out as well as he reasonably can. He should reasonably attempt to meet all such needs and interests on an equitable basis. Particular areas of interests and types of appropriate service may, of course, differ from community to community, and from time to time. *However, the Commission does expect its broadcast licensees to take the necessary steps to inform themselves of the real needs and interests of the areas they serve and to provide programming which in fact constitutes a diligent effort, in good faith, to provide for those needs and interests.* (Emphasis supplied.)

2. In conjunction with this statement we noted that, in the past, with the exception of individual hearing cases, we had relied for the most part on information contained in individual broadcast applications to assess whether the needs and interests of the public had been met. We expressed our belief that it would be most helpful to broaden the base of our knowledge on this question by holding a public hearing in a specific community. Accordingly, for the reasons set forth in the Notice of Inquiry, an inquiry ad-

<sup>1</sup> Frontier Airlines, Inc., Local Passenger Fares Tariff No. GS-1, C.A.B. No. 31, filed October 23, 1962.

dressed to this question was instituted in the City of Chicago.

3. In the summary of the inquiry contained in the Report of the Presiding Commissioner, June 18, 1962 (Mimeo No. 21109), the Presiding Commissioner stated that the hearing had served a good and useful purpose and was well worthwhile. In the opinion of the Presiding Commissioner, the inquiry proved to be of mutual benefit to the public, to the broadcasters, and to the Commission, in that it established an avenue of communication for that part of the public which chose to be vocal. As a result of the hearing, the Presiding Commissioner believed that the public, the industry, and the Commission have learned much and must, therefore, have greater respect each for the other's problems and views.

4. The Presiding Commissioner recommended that the Commission should, on a limited basis, from time to time, engage in further such inquiries in typical test markets of different kinds, e.g. two and three station affiliated markets, inter-mixed UHF and VHF markets. In this conclusion a majority of the Commission is in agreement. We believe that by holding inquiries in such typical test markets, the Commission will gain much greater insight into the public interest problems associated with the particular kind of market. This in turn will enable us to better discharge our functions with respect to rule making, processing, and all aspects of policy formulation. In short, if we are to carry out the Congressional desire "to maintain, through appropriate administrative control, a grip on the dynamic aspects of radio transmission" (F.C.C. v. Pottsville Bctg. Co., 309 U.S. 134, 138), this type of inquiry is a most appropriate tool. In addition, the inquiry will, of course, be beneficial to the stations and listening public in the particular areas, affording as it does an excellent forum for the exchange of views calculated to aid the broadcaster in making his judgment as to the needs and interests of the area.

5. Accordingly, we have decided to institute a second inquiry addressed to the matters enunciated in the above excerpt from our en banc Programming Inquiry Report (supra). For the subject of this second inquiry we have chosen the City of Omaha, Nebraska. The reasons for this selection are threefold: First, Omaha, although a large metropolitan area, differs from Chicago in geographic location, population, and economic and social characteristics, and therefore should have local needs and interests which differ from those in Chicago; second, in line with the suggestions of the Presiding Commissioner, the area is served by three VHF television stations, each affiliated with a network organization, which are operated by local or multiple corporate licensees; and, third, each of the stations is financially capable of drawing upon the agricultural, educational and cultural and other components of its community in order to meet the needs and interests of its service area.

6. The Commission has considerable discretion in devising the appropriate

procedure to be employed in inquiries of this nature. Thus, we selected a particular procedure in the network programming investigation which fitted the very broad, national nature of that inquiry (Docket No. 12782, now before the court, F.C.C. v. Taft B. Schreiber and MCA, Inc. Case No. 17990, C.A. 9). The instant proceeding, however, is much narrower in scope, being limited to a single community and to witnesses concerned with the programming efforts of three television stations. For that reason, we have determined upon the following as the appropriate procedure to be employed in this proceeding:

a. Each witness, public or representing a licensee, has the right to have counsel beside him when testifying.

b. Counsel for the witness shall have the full right to advise the witness as to all matters.

c. Counsel for the witness shall also have the right to object to any question addressed to the witness represented by him and to present on the record concise grounds for such objection.

d. Counsel for the witness shall have no right to examine or cross-examine any witness.

e. Interrogation of witnesses shall be conducted by Commission counsel assigned to the proceeding and by the presiding officer.

In the circumstances of this proceeding, we believe that the above procedure will facilitate the orderly development of the data sought by the Commission and accord witnesses fair and appropriate rights. All other procedural questions are left to the discretion and good judgment of the presiding officer at the hearing.

7. In light of the above, and on the Commission's own motion pursuant to the authority provided in section 403 of the Communications Act of 1934, as amended, it is ordered that an inquiry and investigatory proceeding be held before Commissioner E. William Henry on January 28, 1963, in the City of Omaha, Nebraska, at a place to be designated by further order, for the purpose of inquiring into, and obtaining full information concerning:

(a) The efforts made by the Omaha television stations to determine the needs and interests of the residents of Omaha in the area of local live programming.

(b) The effectiveness with which television stations in Omaha have met the needs and interests of Omaha residents by broadcasting local live programs.

(c) The extent of public demand and need, if any, for additional or different types of local live television programs than those now broadcast by Omaha television stations.

8. *It is further ordered*, That interested persons and organizations desiring to appear and testify at the above proceeding shall notify the Commission in writing of such intentions not later than December 19, 1962, and shall accompany their notifications concerning the proposed witnesses, with identifying information including home and business addresses and telephone numbers, and

such persons and organizations shall, not later than January 14, 1963, submit a written statement of their proposed testimony.

9. *It is further ordered*, That the licensees of Television Stations KMTV, WOW-TV and KETV are directed to present themselves at this inquiry for the purpose of offering testimony relating to the subject of the inquiry.

Adopted: November 21, 1962.

Released: November 23, 1962.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>1</sup>

[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 62-11900; Filed, Nov. 30, 1962;  
8:50 a.m.]

[Docket Nos. 14693, 14694; FCC 62M-1572]

JOHN A. EGLE AND KLFT RADIO,  
INC.

#### Order Regarding Procedural Dates

In re applications of John A. Egle, Golden Meadow, Louisiana, Docket No. 14693, File No. BP-15478; KLFT Radio, Inc., Golden Meadow, Louisiana, Docket No. 14694, File No. BP-15536; for construction permits.

The Hearing Examiner having under consideration a petition filed jointly on November 19, 1962, by the two above-named applicants, requesting (1) that the hearing in the above-entitled proceeding presently scheduled to commence on December 4, 1962, be continued for a period of 15 days; and (2) that the date for exchange of hearing exhibits be extended from November 19 to December 4, 1962; and

It appearing that the time provided for the filing of opposition to the instant petition has expired and no opposition has been interposed to a grant thereof; and

It further appearing that the applicants have, since the last prehearing conference, entered into negotiations which, if concluded, could result in dismissal of one of the applications and request for immediate grant of the remaining application, and the comparative hearing would, thus, be unnecessary;

*It is ordered*, This 27th day of November 1962, that the petition be and it is hereby granted; and the hearing in the above-entitled proceeding be and it is hereby continued from December 4, 1962, to December 19, 1962, at 10 a.m., in Washington, D.C.; and the date for exchange of exhibits is hereby extended from November 19, 1962, to December 4, 1962.

Released: November 27, 1962.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 62-11901; Filed, Nov. 30, 1962;  
8:51 a.m.]

<sup>1</sup> Dissenting opinion of Commissioner Hyde filed as part of original document.

[Docket Nos. 14719, 14720; FCC 62M-1573]

**WYMAN N. SCHNEPP ET AL.**

**Order Continuing Hearing**

In re applications of Wyman N. and Willa M. Schnepf, joint tenants, Abilene, Kansas, Docket No. 14719, File No. BP-14587; Valley Broadcasting Company, Beloit, Kansas, Docket No. 14720, File No. BP-14592; for construction permits.

The Hearing Examiner having under consideration a petition filed November 26, 1962, on behalf of Wyman N. and Willa M. Schnepf, requesting that the hearing presently scheduled to begin on November 27, 1962, be continued indefinitely; and

It appearing that on October 15, 1962, the above-entitled applicants filed a joint petition requesting Commission approval of an agreement pursuant to which the application of Valley Broadcasting Company will be dismissed and the application of Wyman N. and Willa M. Schnepf will be granted; and on November 21, 1962, filed an additional statement supplying information suggested by the Broadcast Bureau in its comments filed October 29, 1962; and

It further appearing that all pertinent material is presently before the Commission Review Board and that the requested continuance is to give said Review Board time within which to consider and act upon the joint petition; and

It further appearing that good cause for granting the continuance has been shown and that the Commission counsel has consented to the immediate favorable consideration of this petition;

It is ordered, This 27th day of November 1962, that the above petition for continuance is granted and the hearing presently scheduled for November 27, 1962, is continued to March 4, 1963.

Released: November 27, 1962.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 62-11902; Filed, Nov. 30, 1962;  
8:51 a.m.]

[Docket Nos. 14857-14862; FCC 62-1213]

**WELLSBURG TV, INC., AND PEOPLE'S COMMUNITY TELEVISION ASSOCIATION, INC.**

**Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues**

In re applications of Wellersburg TV, Inc., Wellersburg, Pennsylvania; Docket No. 14857, File No. BPTTV-1174, Req: Input Channel 6, Johnstown, Pennsylvania (NBC), Output Channel 8 (to serve Wellersburg, Pennsylvania); Docket No. 14858, File No. BPTTV-1175, Req: Input Channel 7, Washington, D.C. (ABC), Output Channel 11 (to serve Wellersburg, Pennsylvania); Docket No. 14859, File No. BPTTV-1176, Req: Input Channel 9, Washington, D.C. (CBS), Output Channel 13 (to serve Wellersburg, Pennsylvania).

People's Community Television Association, Inc., LaVale, Maryland; Docket No. 14860, File No. BPTTV-1177, Req: Input Channel 9 (via BPTTV-1176), Washington, D.C. (CBS), Output Channel 7 (to serve Cumberland, Maryland); Docket No. 14861, File No. BPTTV-1178, Req: Input Channel 7 (via BPTTV-1175), Washington, D.C. (ABC), Output Channel 9 (to serve Cumberland, Maryland); Docket No. 14862, File No. BPTTV-1179, Req: Input Channel 6 (via BPTTV-1174), Johnstown, Pennsylvania (NBC), Output Channel 12 (to serve Cumberland, Maryland).

For construction permits for VHF translator stations.

1. The Commission has before it for consideration three applications by Wellersburg TV, Inc., Wellersburg, Pennsylvania, for authority to construct three new VHF television translator stations to serve Wellersburg, Pennsylvania, and three applications filed by People's Community Television Association, Inc., LaVale, Maryland, for authority to construct three new VHF television translator stations to serve Cumberland, Maryland. The applications are for convenience hereinafter referred to sometimes as the "Wellersburg Applications" and the "Cumberland Applications".

2. Both the Cumberland applications and the Wellersburg applications, while filed respectively in the names of People's Community Television Association, Inc., and Wellersburg TV, Inc., specify that all communications are to be sent to Mr. Virgil H. Ruppenthal, LaVale, Maryland. Mr. Ruppenthal is not listed as an officer or director of either applicant corporation, but has signed the engineering portions of the applications in his capacity as technical director. On March 23, 1962, letters were directed to both People's Community Television Association, Inc., and Wellersburg TV, Inc., c/o Virgil H. Ruppenthal, requesting additional information in connection with their applications. A single letter, dated April 16, 1962, was filed in response to the above-mentioned Commission correspondence, signed by Mr. Ruppenthal and apparently attempting to answer the questions directed to both applicants. By letter dated April 15, 1962, R. L. Bigler, Secretary of People's Community Television Association, Inc., Cumberland, Maryland, advised the Commission that its letter directed to his organization was sent in care of Mr. Ruppenthal and was still in his possession, and had not been presented to People's Community Television Association, Inc. Mr. Bigler requested a copy of the Commission's letter in order that his organization might respond thereto. Such a copy was directed to People's Community Television Association, Inc., c/o Mr. Bigler and, on April 24, 1962, Mr. Ruppenthal was advised that his responses to Commission correspondence directed to the applicants were not considered to be official responses of said applicants. Mr. Ruppenthal was requested to explain to the Commission the reason for withholding the communications directed to People's Commu-

nity Television Association, Inc., and was requested to advise whether he had submitted the similar letter directed to Wellersburg TV, Inc., for its consideration and proper reply thereto. Mr. Ruppenthal advised the Commission that he had called joint meetings of the two organizations, at which time he personally read the communications to both. Mr. Ruppenthal further stated that he "instructed them" as to further steps to be taken. In the light of the foregoing, questions are raised as to whether People's Community Television Association, Inc., or Wellersburg TV, Inc., are the only parties in interest to the respective applications, or whether, in fact, Mr. Virgil H. Ruppenthal is an undisclosed party in interest, and actually controls the two organizations. In this connection, Mr. Ruppenthal has advised the Commission that his efforts with respect to the above-captioned translator applications have been made merely because of a desire to help provide television broadcast service to the Cumberland area.

3. With respect to the Wellersburg applications, said applications indicated that the applicant was a corporate organization organized under the laws of the State of Pennsylvania. However, the corporate seal on each of the applications specifies "Wellersburg TV, Inc., Maryland". Photostatic copies of the Articles of Incorporation and the By-Laws of Wellersburg TV, Inc., were requested from the applicant. The Articles of Incorporation of Wellersburg TV, Inc., certify that the subscribers thereto associate themselves with the intention of forming a corporation under the general laws of the State of Pennsylvania. However, the Articles of Incorporation were received, approved and recorded by the State Department of Assessments and Taxation of Maryland and recorded in the charter records of said State Department. The By-Laws of Wellersburg TV, Inc., specified in Article 5, in part, that the corporate seal shall bear the corporate word "Pennsylvania". However, the corporate seal, as heretofore noted, carries the designation of Wellersburg, Maryland. Wellersburg TV, Inc., was requested to explain in full detail the discrepancies and the reasons therefor, especially since Wellersburg is located in Pennsylvania, as would be the proposed facilities. Replies concerning this matter include correspondence signed by Mr. Ruppenthal indicating that he was enclosing such correspondence and pertinent information as he was able to furnish concerning the matter; correspondence from James H. Emerick, President of Wellersburg TV, Inc., who stated that the corporation's attorney had advised him that " \* \* \* he had taken care of everything \* \* \* "; and a letter over the signature of Mr. John Sullivan, attorney for Wellersburg TV, Inc., who indicated, in essence, that the discrepancies resulted from erroneous presumptions, typographical error, and changes in circumstances. Mr. Sullivan further indicated that application has been made by Wellersburg TV, Inc., for authority to do business in the State of

Pennsylvania, and that such application is being "processed". Assuming the propriety of incorporation of Wellersburg TV, Inc., under Maryland State Law by virtue of corrections of the Articles of Incorporation, a question still remains as to whether such corporation is authorized to do business in the State of Pennsylvania. Wellersburg TV, Inc., has attempted to make this showing by submitting a printed application form for a certificate of authority for a corporation to do business in the State of Pennsylvania, in which pertinent information has been filled in, but no date of execution has been indicated, nor has a signature been affixed, nor has the application been notarized. Accordingly, the question of whether Wellersburg TV, Inc., has in fact obtained authority to do business in the State of Pennsylvania is unresolved.

4. The Commission has advised both the Wellersburg and the Cumberland applicants of the provisions of § 4.732(d) of the Commission's rules to the effect that "A VHF translator will not be authorized to serve an area which is receiving satisfactory service from one or more UHF television broadcast stations or UHF translators unless, upon consideration of all applicable public interest factors, it is determined that, exceptionally, such intermixture of VHF and UHF service is justified." It appearing that both Wellersburg and Cumberland might be served with the signals of nearby UHF Translator Stations W76AA, W78AA and W80AB, licensed to serve Frostburg, LaVale and Cresaptown, Maryland, the applicants were requested to advise the Commission whether such UHF service was in fact satisfactorily received in their respective communities and, if so, to justify their proposals for VHF translators to serve such areas. The response filed by Mr. Ruppenthal attempted to supply this information, indicating in essence that UHF signals " \* \* \* are present \* \* \*" but raising a question as to the satisfactory quality thereof. Subsequently a response was filed by People's Community Television Association, Inc., over the signature of R. L. Bigler, Secretary, which stated in essence that UHF translators did not "adequately" serve Cumberland. No reply has been received from Wellersburg TV, Inc., in response to the Commission's inquiry concerning this matter. The Commission conducted tests in Cumberland to determine whether UHF signals could be satisfactorily received. Such tests indicated that a substantial UHF translator signal was receivable over a substantial part of Cumberland, although not in all parts due to terrain conditions. No tests were made in the Wellersburg area. Accordingly, a question obtains as to whether satisfactory UHF television translator signals are available in either Wellersburg or Cumberland, and, if so, whether intermixture of VHF and UHF translator service would, upon consideration of all applicable public interest factors, be justified.

5. The Commission has been advised that about September 1961, a check in the amount of \$15,000 was given by Tele-

vision Station WJAC-TV (Johnstown, Pennsylvania) to Mr. Virgil H. Ruppenthal, Executive Vice-President of Tri-State Television Translators, Inc., LaVale, Maryland. The check was made payable to the order of Tri-State Television Translators, Inc. The Commission was further informed that the purpose of the \$15,000 donation by Television Station WJAC-TV was to further translator development in Maryland. No indication was given as to any express conditions between the donor and recipient of the funds. The Commission was informed, however, that Tri-State Television Translators, Inc., was allowing a \$400 discount per translator to those parties purchasing the equipment from this association. It is not clear whether the money was to be utilized only for those translators which would rebroadcast Television Station WJAC-TV. The Commission was advised that, in addition to Mr. Ruppenthal, others present at the time of the passing of the check included John C. Sullivan, then-counsel for Tri-State Television Translators, Inc., Dr. B. W. St. Clair, President of Electronics, Missiles and Communications, Inc., Mt. Vernon, New York, manufacturer of the VHF translators sold by Tri-State Television Translators, Inc., and John Barton, Pinto, Maryland. The party or parties representing Television Station WJAC-TV were not identified. Tri-State Television Translators, Inc., is an organization formed for the purpose of selling translators through a cooperative form of endeavor, providing such units at one-third discounted retail price. This organization is not a licensee of, or an applicant for, any broadcast facility.

6. Examination of the above-captioned translator applications, which propose purchase of translator facilities from Tri-State Television Translators, Inc., has revealed that no showing is made as to receipt by the applicants of \$400 or any amount from the alleged WJAC-TV donation. The applications showed purchase price of three translators, less one-third co-op discount, the downpayment on equipment, and the balance due. Recently, the Commission was informed that the method of providing the \$400 donation from the alleged WJAC-TV donation to translator applicants was by virtue of an additional, undisclosed \$400 discount, applicable to translator purchasers dealing with Tri-State Television Translators, Inc. With respect to the Wellersburg applications, the financial showing consists of a statement by a Cumberland bank certifying that Wellersburg TV, Inc., has on deposit with said bank the sum of \$2,803 in a checking account. A purchase order under the letterhead of Tri-State Television Translators, Inc., set forth as an exhibit to the Wellersburg applications, shows an order by Wellersburg TV, Inc., for three one-watt translators at \$1,195 each, totaling \$3,585, less cooperative discount of one-third amounting \$1,195, with a deposit on equipment and other costs in the amount of \$639, leaving a balance due upon receipt of construction permit of \$1,751. The financial showing made in the Cumberland appli-

cations consists of a statement that cost of construction would be financed through popular subscription and pledges plus cash in the bank in the amount of \$1,957.83. A purchase order by People's Community Television Association, Inc., from Tri-State Television Translators, Inc., sets forth the same figures as indicated in the Wellersburg applications. However, the Cumberland applications contained an additional "Statement of Latest Financial Condition", setting forth assets of the applicant, and the applicant subsequently amended its applications in certain respects and incorporated in such amendments an additional "Statement of Latest Financial Condition" setting forth the identical information as in the earlier statement, but with the additional statement that "our funds are secured through gifts, subscriptions, and earned discount on equipment." In the light of successive statements concerning the alleged WJAC-TV donation, and in view of the absence of any showing by either Wellersburg TV, Inc., or People's Community Television Association, Inc., as to receipt of such funds, directly or indirectly, questions are raised as to whether there has been any form of financial support provided either directly or indirectly by Television Station WJAC-TV to translator applicants; whether, assuming such financial support was provided, the translator applicants benefitted would be eligible to provide translator service to areas beyond the Grade B service contour of the television stations whose programs would be rebroadcast thereby, in the light of restrictions of § 4.732(e) of the rules; and as to whether there has been any misrepresentation by either or both applicants as to the means of financing and source of funds proposed to be utilized for the subject translators.

7. In the light of the foregoing, the above-captioned applications of Wellersburg TV, Inc., and People's Community Television Association, Inc., are designated for hearing in a consolidated proceeding on the following issues:

(1) To determine whether satisfactory UHF television translator signals are available in either Wellersburg, Pennsylvania or Cumberland, Maryland, and, if so, the extent thereof.

(2) To determine whether, in the event satisfactory UHF television translator signals are available in either Wellersburg, Pennsylvania or Cumberland, Maryland, or both, public interest factors are such as to warrant intermixture of VHF and UHF television translator service in either or both of these communities.

(3) To determine whether Wellersburg TV, Inc., is authorized to do business in the State of Pennsylvania.

(4) To determine the source of all funds and other assistance, if any obtained by Wellersburg TV, Inc., for the purpose of constructing and maintaining its proposed translators.

(5) To determine the specific contractual arrangement between Wellersburg TV, Inc., and Tri-State Television Translators, Inc., written or oral, with respect to purchase of the proposed translators

and discounts or credits applicable thereto.

(6) To determine whether Wellersburg TV, Inc., knowingly received financial support, directly or indirectly, from Television Station WJAC-TV.

(7) To determine the source of all funds and other assistance, if any, obtained by People's Community Television Association, Inc., for the purpose of constructing and maintaining its proposed translators.

(8) To determine the specific contractual arrangement between People's Community Television Association, Inc., and Tri-State Translators, Inc., written or oral, with respect to purchase of proposed translators and discounts or credits applicable thereto.

(9) To determine whether People's Community Television Association, Inc., knowingly received financial support, directly or indirectly, from Television Station WJAC-TV.

(10) To determine whether Wellersburg, Pennsylvania or Cumberland, Maryland lie within the predicted Grade B contour of Television Station WJAC-TV, Johnstown, Pennsylvania, or within the predicted Grade B contour of any other television broadcast station.

(11) In the light of the evidence adduced pursuant to the foregoing issues, to determine whether any of the above-captioned applications would qualify under the restrictions set forth in § 4.732 (e) (1) of the Commission's rules.

(12) To determine the nature and extent, if any, of control exercised over Wellersburg TV, Inc., and over People's Community Television Association, Inc., by Virgil H. Ruppenthal, Vice President of Tri-State Translators, Inc., or by Tri-State Translators, Inc.

(13) In the light of the evidence adduced pursuant to the foregoing issue, to determine whether Wellersburg TV, Inc., or People's Community Television Association, Inc., are the only parties in interest to their respective applications.

(14) To determine in the light of the evidence adduced under the foregoing issues whether the public interest would be served by a grant of the above-captioned applications or any of them.

*It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof in Issues Nos. 3, 4, 5, and 6 shall be on the applicant, Wellersburg TV, Inc.

*It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof as to Issues Nos. 7, 8, and 9 shall be on the applicant, People's Community Television Association, Inc.

*It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof as to Issues Nos. 1, 2, 10, 11, 12, and 13 shall be jointly on the applicants, Wellersburg TV, Inc., and People's Community Television Association, Inc.

*It is further ordered,* That WJAC, Inc., licensee of Television Station WJAC-TV, is hereby made a party to the above-captioned proceedings.

*It is further ordered,* That Tri-State Translators, Inc., and Virgil H. Ruppenthal, Executive Vice-President of Tri-

State Translators, Inc., are hereby made parties to the above-captioned proceedings.

*It is further ordered,* That the burden of proceeding and the introduction of evidence and the burden of proof as to Issue No. 10 shall be on the applicants.

*It is further ordered,* That the hearing on the above issues shall be held in Cumberland, Maryland, at a time to be specified in a subsequent Order.

*It is further ordered,* That the applicants herein shall, pursuant to section 311(a) (2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(h) of the Commission's rules.

*It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants and parties herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall within twenty (20) days from the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

Adopted: November 21, 1962.

Released: November 28, 1962.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 62-11903; Filed, Nov. 30, 1962;  
8:51 a.m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 245-1810]

### AMERICAN EAGLE MINING CO.

#### Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

NOVEMBER 27, 1962.

I. American Eagle Mining Company (issuer) West 1611 8th Avenue, Spokane, Washington, incorporated in the State of Washington on September 3, 1957, filed with the Commission on February 10, 1961, a notification on Form 1-A and an offering circular with respect to a proposed public offering of 50,300 shares of its \$1 par value common stock as a mining speculation, for an aggregate stated offering of \$50,300 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) and Regulation A promulgated thereunder. The offering, which was to be sold by stockholder-salesmen of the issuer, commenced on March 22, 1961.

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in

that the issuer's shares were sold without the use of an offering circular containing the information specified in Schedule I of Form 1-A.

B. The notification and offering circular contain untrue statements of material facts, and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to the following:

1. The failure to disclose in the offering circular the actual method of offering whereby a portion of the stock would be offered to the public at higher and undetermined prices by a small number of stockholder-salesmen who purchased directly or indirectly from the issuer with a view to distribution and who did distribute the stock.

2. The failure to disclose in the offering circular the resultant profit of such persons from such a distribution.

3. The failure to disclose in the offering circular the identities of these stockholder-salesmen and the nature of their relationships with the issuer.

C. The offering of these securities was made by the stockholder-salesmen of the issuer in violation of section 17 of the Securities Act of 1933, as amended, in that:

1. Representations were made to investors that substantial amounts of ore had been blocked out as a result of exploratory work; whereas, in fact, the exploratory mining operation of the company had not blocked out ore reserves, but had, in fact, developed information which indicated the continuance of exploratory work was of doubtful feasibility.

2. Representations were made to investors that ore had been stockpiled.

3. Representations were made to investors that the mine was to or was shortly to become operational.

4. Representations were made to investors that substantial outside interests were trying to purchase issuer's mine.

5. Representations were made to investors that the purchase price of \$2 per share was to go directly to the company.

6. No disclosure was made that the seller was diverting \$1 a share to his own use.

7. Representations were made to investors that the stock was soon to be listed on a stock exchange.

8. Representations were made to investors that the shares being offered were worth more than the offering price of \$2 per share and could appreciate greatly in value in the near future.

9. Representations were made to investors that there was little or no risk in investment in the shares of American Eagle Mining Company.

10. Stockholder-salesmen of the issuer omitted to state that investors could buy directly from the company for \$1 a share.

III. *It is ordered,* Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A of securities of American Eagle Mining Company pursuant to said notification be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL] ORVAL L. DuBois,  
Secretary.

[F.R. Doc. 62-11875; Filed, Nov. 30, 1962;  
8:46 a.m.]

[File No. 70-4090]

### ATLANTIC SEABOARD CORP. AND COLUMBIA GAS SYSTEM, INC.

#### Notice of Proposed Intrasystem Issuance and Acquisition of Installment Notes

NOVEMBER 26, 1962.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia") 120 East 41st Street, New York 17, New York, a registered holding company, and its wholly-owned nonutility subsidiary company, Atlantic Seaboard Corporation ("Seaboard"), have filed a joint application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b), 9, 10, and 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the joint application, on file at the office of the Commission, for a statement of the transactions therein proposed which are summarized below.

Seaboard proposes to issue, and Columbia, proposes to acquire, \$1,900,000 principal amount of installment promissory notes. The proposed notes are to be unsecured, nonregistered, and dated the date of their issue. The principal amounts will be due in twenty-five equal annual installments on January 15 of each of the years 1964 to 1988, inclusive. Interest is to be paid semi-annually on January 15 and July 15 on the unpaid principal thereof. The notes will bear interest at the rate of 4.4 percent per annum, such rate being approximately equal to the cost of money to Columbia with respect to its sale of debentures on November 1, 1962.

The notes are being issued in consideration of the discharge by Columbia of an obligation of Seaboard arising from an emergency cash advance in the form of a noninterest bearing short-term loan in the amount of \$1,900,000. Such cash was used by Seaboard to make interim refunds to its customers pursuant to an order of The Federal Power Commission issued September 14, 1962. The revenues

collected by Seaboard, subject to refund, were commingled with Seaboard's general funds and used for general corporate purposes.

The joint application states that expenses incident to the proposed issuance and acquisition of notes are estimated at \$100 for each company and that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 10, 1962, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed contemporaneously with the request. At any time after said date, the joint application, as filed or as amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DuBois,  
Secretary.

[F.R. Doc. 62-11876; Filed, Nov. 30, 1962;  
8:46 a.m.]

[File No. 70-4080]

### CENTRAL AND SOUTH WEST CORP., ET AL.

#### Notice of Proposed Intrasystem Issuances, Sales and Acquisitions of Short-Term Notes

NOVEMBER 27, 1962.

In the matter of Central and South West Corporation, 902 Market Street, Wilmington 99, Delaware, Central Power and Light Company, 120 North Chaparral Street, Corpus Christi, Texas, Southwestern Electric Power Company, 428 Travis Street, Shreveport, Louisiana, West Texas Utilities Company, 1062 North Third Street, Abilene, Texas; File No. 70-4080.

Notice is hereby given that Central and South West Corporation ("Central"), a registered holding company, and three of its subsidiary companies, Central Power and Light Company ("Central Power"), Southwestern Electric Power Company ("Southwestern"), and West Texas Utilities Company ("West Texas"), have filed with this Commission a joint application-declaration and an amendment thereto, designating sections 6, 7, 9, 10, 12(b), and 12(f) of the Public Utility Holding Com-

pany Act of 1935 ("Act") and Rules 43 and 45 thereunder as applicable to the proposed transactions.

All interested persons are referred to the joint application-declaration, as amended, on file at the office of the Commission, for a statement of the transactions therein proposed, which are summarized as follows:

Central has \$7,500,000 of cash which it desires to lend to the above named subsidiary companies and, upon repayments thereof, relend to such subsidiary companies up to an aggregate of \$13,000,000 for the purpose of financing, in part, their construction programs. Accordingly, Central Power, Southwestern, and West Texas, respectively, propose to issue and sell up to \$5,000,000, \$5,000,000 and \$3,000,000 face amount of unsecured promissory notes, provided, however, that the aggregate amount of such notes to be issued and outstanding at any one time shall not exceed \$7,500,000; and Central proposes to acquire such notes as are issued at their face amount.

Except for \$1,000,000 face amount of notes to be issued by Southwestern in December 1962, the proposed notes are to be issued in varying amounts, from time to time during 1963, and are to be dated as of the date of their issuance. The notes are to bear interest at a rate not greater than 3 percent per annum, are to mature on December 31, 1963, and may be prepaid at any time without premium or penalty.

The proceeds from the proposed issuance and sale of notes are to be used to finance temporarily a portion of the construction expenditures of the three subsidiary companies for the year 1963 which are estimated at \$15,810,000 for Central, \$21,924,000 for Southwestern and \$7,566,000 for West Texas or an aggregate of \$45,300,000.

The fees and expenses to be incurred in connection with the proposed transactions are estimated to aggregate \$1,300.

It is stated that no Federal commission, other than this Commission, and no State commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 13, 1962, request this Commission in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for the request, and the issues of fact or law, raised by the joint application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of the request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicants-declarants, and proof of service (by affidavit, or in the case of an attorney-at-law, by certificate) filed or dispatched contemporaneously with the request. At any time after said date the amended joint application-declaration as filed or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the

## NOTICES

rules and regulations promulgated under the Act; or the Commission may grant exemption from its rules as provided in Rules 20 (a) and 100 thereof, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 62-11877; Filed, Nov. 30, 1962;  
8:46 a.m.]

## INTERSTATE COMMERCE COMMISSION

### FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 28, 1962.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

#### LONG-AND-SHORT HAUL

FSA No. 38052: *Returned shipments—Cement within official territory.* Filed by Traffic Executive Association—Eastern Railroads, Agent (ER No. 2643), for interested rail carriers. Rates on cement, returned from original destination to original point of shipment, in carloads, from, to and between points in official territory.

Grounds for relief: Carrier competition.

Tariffs: Supplement 50 to The Baltimore and Ohio Railroad Company's tariff I.C.C. 24452, and other schedules described in the application.

FSA No. 38053: *Ethylene glycol from and to Decatur, Ala., and Kingsport, Tenn.* Filed by Southwestern Freight Bureau, Agent (No. B-8302), for interested rail carriers. Rates on ethylene glycol, in tank-car loads, between points in Louisiana and Texas, on the one hand, and Decatur, Ala., and Kingsport, Tenn., on the other.

Grounds for relief: Water, water-truck and truck-water competition.

Tariff: Supplement 255 to Southwestern Freight Bureau tariff I.C.C. 4064.

FSA No. 38054: *Clay, kaolin or pyrophyllite from Fort Deposit, Ala.* Filed by O. W. South, Jr., Agent (No. A4258), for interested rail carriers. Rates on clay, kaolin or pyrophyllite, in carloads, from Fort Deposit, Ala., to points in official (including Illinois) territory.

Grounds for relief: Market competition.

Tariff: Supplement 128 to Southern Freight Association tariff I.C.C. S-40.

By the Commission.

[SEAL] HAROLD D. McCoy,  
Secretary.

[F.R. Doc. 62-11881; Filed, Nov. 30, 1962;  
8:47 a.m.]

