Pages 14615–14656

FEDERAL REGISTER

VOLUME 29 NUMBER 210

Washington, Tuesday, October 27, 1964

Contents

(*Continued on next page*)

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.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1964, and specifies how they are affected.

3 CFR

EXECUTIVE ORDER:
11186 14617

7 CFR

210 14619
215 14619
850 14620

14 CFR

71 [New] (3 documents) ... 14620, 14621
75 [New] (2 documents) ... 14621, 14622
PROPOSED RULES:
71 [New] (3 documents) ... 14641, 14642

16 CFR

13 (2 documents) 14622, 14623

18 CFR

PROPOSED RULES:
12 14643

21 CFR

15 14623
121 (2 documents) 14624, 14625
146a 14624
PROPOSED RULES:
121 14641

26 CFR

1 14628
PROPOSED RULES:
1 14637
31 14637

33 CFR

67 14634

43 CFR

PUBLIC LAND ORDERS:
3461 14636

46 CFR

43 14635

47 CFR

73 14636
PROPOSED RULES:
73 (2 documents) 14642

49 CFR

PROPOSED RULES:
187 14644

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11186

ESTABLISHING THE FEDERAL DEVELOPMENT PLANNING COMMITTEE FOR APPALACHIA

WHEREAS representatives of the Federal Government and of the Governors of the States in the Appalachian region have been cooperating in the preparation of plans and programs for the long-range development of Appalachia; and

WHEREAS such plans have provided for coordinated action by Federal, State, and local agencies in carrying out programs to further the development of Appalachia and to facilitate and encourage private investment in that area; and

WHEREAS the Governors of various States of the Appalachian region have requested that such cooperation be continued; and

WHEREAS the proper discharge by the Federal Government of its responsibilities to the people of the Appalachian region requires that such cooperation be continued and that related planning activities of the Federal Government be effectively coordinated:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of Committee.* (a) There is hereby established the Federal Development Planning Committee for Appalachia (hereinafter referred to as the "Committee").

(b) The Committee shall be composed of the following: (1) a Chairman, who shall be appointed by the President, (2) members, one of whom shall be designated by and represent each of the following-named officers, respectively: the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of the Army, the Housing and Home Finance Administrator, and the Director of the Office of Economic Opportunity, and (3) a member who shall represent the Tennessee Valley Authority and shall be designated by the board of directors of the Authority.

(c) The Chairman may request any Federal agency head not referred to in subsection (b), above, to designate a representative to participate in meetings of the Committee concerned with matters of substantial interest to such agency head.

SEC. 2. *Functions of the Chairman.* (a) The Chairman shall cooperate with representatives designated by the Governors of States in the Appalachian region in:

(1) Fostering surveys and studies to provide data required for the preparation of plans and programs for the development of Appalachia;

(2) Preparing coordinated plans for the development of Appalachia deemed appropriate to carry out existing statutory responsibilities of Federal, State, or local agencies. Such plans shall be designed to promote optimum benefits from the expenditure of Federal, State, and local funds and to facilitate and promote private investment in the development of Appalachia; and

(3) Preparing legislative and other recommendations with respect to both short-range and long-range programs and projects for Federal, State, or local agencies.

(b) With the approval of the agency head concerned the Chairman may arrange for recommended surveys and studies to be made by any

Federal agency with respect to matters falling within the existing statutory authorities and responsibilities of that agency.

SEC. 3. *Functions of the Committee.* The Committee shall:

(a) Advise the Chairman with respect to (1) surveys and studies needed for the preparation of development plans, (2) the concrete proposals for surveys and studies developed by the Chairman in cooperation with the representatives of the Governors, and (3) desirable development objectives and programs for the Appalachian region.

(b) Receive, review, and comment on all tentative development plans or other tentative recommendations developed by the Chairman in cooperation with the representatives of the Governors; and

(c) Receive and consider final plans and recommendations and transmit them, with its own comments, to the President and the heads of interested Federal agencies.

SEC. 4. *Administrative arrangements.* (a) If the Chairman of the Committee does not concurrently hold other compensated office or employment under the United States, he shall receive such compensation under this order as shall be fixed in accordance with the standards and procedures of the Classification Act of 1949, as amended.

(b) The Department of Commerce is hereby designated as the agency which shall provide administrative services for the Committee and for the Chairman.

(c) Each Federal agency the head of which is referred to in Section 1(b) of this order shall, as may be necessary, furnish assistance to the Committee in accordance with the provisions of Section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691).

(d) Each Federal agency shall, consonant with law and within the limits of available funds, cooperate with the Committee and with the Chairman in carrying out their functions under this order. Such cooperation shall include, as may be appropriate, (1) furnishing relevant available information, (2) making studies and preparing reports pursuant to requests of the Chairman, (3) in connection with the development of programs and priorities of the agency, giving full consideration to any plans and recommendations for the development of Appalachia, including recommendations made by the Committee, and (4) advising on the work of the Committee as the Chairman may from time to time request.

SEC. 5. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency, to the authority of the Committee or the Chairman, or as abrogating or restricting any such function in any manner.

LYNDON B. JOHNSON

THE WHITE HOUSE,
October 23, 1964.

[F.R. Doc. 64-11008; Filed, Oct. 26, 1964; 11:30 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter II—Agricultural Marketing Service (School Lunch Program), Department of Agriculture

[Amdt. 3]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Miscellaneous Amendments

The regulations for the operation of the National School Lunch Program (28 F.R. 1247) as amended (28 F.R. 11531, 29 F.R. 311) are hereby amended as follows:

1. In § 210.2, paragraphs (C–1) is revised and paragraph (m) is amended to read as follows:

§ 210.2 Definitions.

* * * * *

(C–1) "Attendance unit" means a building or a complex of buildings and supporting facilities in which instruction in provided for classes of high school grade or under.

* * * * *

(m) "School" means the governing body responsible for the administration of a public or nonprofit private "school" of high school grade or under, as recognized under the laws of the State, and, in the case of Puerto Rico, also includes nonprofit child-care centers certified as such by the Governor of Puerto Rico. The term also includes a nonprofit agency to which the school has delegated authority for the operation of its nonprofit lunch program.

* * * * *

2. Paragraph (a) of § 210.5 *Payments to States* is amended to read as follows and (b) is deleted.

(a) The general cash-for-food assistance funds apportioned to any State shall be made available by means of Letters of Credit issued by AMS to appropriate Federal Reserve Banks in favor of the State Agency. Such Letters of Credit shall be designed to provide funds for the State Agency for the operation of the Program in such amounts and at such times as the funds are needed to reimburse schools. As soon as practicable after funds are made available to AMS, AMS shall prepare a Letter of Credit for each State with which it has an approved agreement. Such Letters of Credit shall contain 10 cumulative monthly limitations, except that for American Samoa, Guam, Puerto Rico and the Virgin Islands, the Letter of Credit shall contain 8 cumulative monthly limitations. These cumulative limitations shall be in accordance with the monthly pattern of participation in each State, as measured by the number of lunches served, based upon the most recent year for which final participation data are available. The first amount authorized shall be for July and August operations, and the final amount authorized shall be for May and June operations except that for American Samoa, Guam, Puerto Rico and the Virgin Islands, the final amount authorized shall be for March, April, May, and June operations. Notwithstanding the foregoing provisions, if funds have been authorized by Congress for the operation of the Program under a continuing resolution, Letters of Credit shall reflect only the amounts authorized for the effective period of the resolution, with appropriate monthly limitations. The State Agency shall obtain funds needed to reimburse schools through presentation by designated State officials of a Payment Voucher on Letter of Credit (Treasury Department Form TUS 5401) to a local commercial bank for transmission to the appropriate Federal Reserve Bank, in accordance with procedures prescribed by AMS and approved by the United States Treasury Department. The State Agency shall draw only such funds as are needed to pay claims certified for payment and shall use such funds without delay to pay the claims. State Agencies shall report information on the status of Program funds on a monthly basis to AMS on a form provided for it. Notwithstanding the foregoing provision for the use of Letters of Credit, Program funds shall be made available to the State Agency in the District of Columbia by means of Treasury Department checks on the same monthly basis as is prescribed for payments made by Letters of Credit.

* * * * *

3. Paragraph (c) of § 210.8 *Requirements for participation* is amended to read as follows:

§ 210.8 Requirements for participation.

* * * * *

(c) Schools shall be selected for participation in the Program on the basis of need and attendance: *Provided, however,* That any school which operates the food or milk service in any attendance unit under a contractual arrangement with a concessionaire or food service management company or under a similar arrangement shall not be eligible for participation in the Program with respect to such attendance unit, even though the school or such attendance unit obtains no profit from the operation of such food or milk service.

* * * * *

4. Paragraph (a) of § 210.12 *Reimbursement procedure* is amended to read as follows:

§ 210.12 Reimbursement procedure.

(a) Each State Agency, or FDD where applicable, shall require schools to submit a "Claim for Reimbursement" on a calendar month basis: *Provided, however,* That not more than 10 days of the beginning or ending month of Program operations in the fiscal year may be combined with the claim of the month immediately following the beginning month or preceding the ending month. Any claim for reimbursement combining the ending month of one fiscal year and the beginning month of the next fiscal year shall not be permitted.

* * * * *

Effective date: July 1, 1964.

Approved: October 22, 1964.

[SEAL] CHARLES S. MURPHY,
Acting Secretary.

[F.R. Doc. 64–10920; Filed, Oct. 26, 1964; 8:48 a.m.]

[Amdt. 3]

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

Miscellaneous Amendments

The regulations for the operation of the Special Milk Program for Children (27 F.R. 7482) and as amended (28 F.R. 12791) and (29 F.R. 1379), are hereby amended as follows:

1. A new paragraph (u) of § 215.2 *Definitions* is added as follows:

§ 215.2 Definitions.

(u) "Attendance unit" means a building or a complex of buildings and supporting facilities in which instruction is provided for classes of high school grade and under.

2. Section 215.4 *Reserve of funds for State Agencies* is deleted.

3. Paragraphs (a), (b) and (c) of § 215.5 *Payments to State Agencies* are amended to read:

§ 215.5 Payments to State Agencies.

(a) Funds for State Agencies shall be made available by means of Letters of Credit issued by AMS to appropriate Federal Reserve Banks in accordance with procedures applicable to AMS. Such Letters of Credit shall be designed to provide funds for State Agencies for the operation of the Program in such amounts and at such time as the funds are needed to reimburse schools and child-care institutions. AMS shall prepare a Letter of Credit for each State Agency with which it has an agreement, as soon as practicable after funds are made available to AMS. Such Letters of Credit shall contain cumulative monthly limitations. These cumulative limitations shall be in accordance with the monthly pattern of participation in each State for the corresponding month of the preceding fiscal year. The first amount authorized shall be for July and August operations, and the final amount authorized shall be for May and June operations.

(b) The State Agency shall obtain funds needed to reimburse schools and child-care institutions through presentation by designated State Officials of a Payment Voucher on Letter of Credit (Treasury Department Form TUS 5401)

to a local commercial bank for transmission to the appropriate Federal Reserve Bank, in accordance with procedures prescribed by AMS and approved by the United States Treasury Department. The State Agency shall draw only such funds as are needed to pay claims certified for payment and shall use such funds without delay to pay the claims. State Agencies shall report information on the status of Program funds on a monthly basis to AMS on a form provided by AMS.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, program funds shall be made available to the State Agency in the District of Columbia by means of Treasury Department checks on the same monthly basis as is prescribed for payments made by Letters of Credit.

* * * * *

4. Paragraph (c) of § 215.7 *Requirements for participation* is amended to read:

§ 215.7 Requirements for participation.

* * * * *

(c) Any school which operates the food or milk service in any attendance unit under a contractual arrangement with a concessionaire or food service management company or under a similar arrangement shall not be eligible for participation in the Program with respect to such attendance unit, even though the school or such attendance unit obtains no profit from the operation of such food or milk service: *Provided, however,* That this does not exclude from participation any school:

(1) That contracts with a dairy or other milk supplier for the rental of milk service equipment and related services as a means of increasing the availability of milk;

(2) Whose food or milk service is operated by a private nonprofit organization, such as a parent-teacher association, under delegation of authority from school officials; or

(3) That maintains food or milk service, such as a snack bar, operated by students for the benefit of student activities, if (i) supplemental to regular nonprofit food or milk service or as the only food or milk service maintained, the school uses the student-operated facilities as a means of increasing the availability of milk rather than to employ labor for that purpose, (ii) the milk served through the student-operated facilities is purchased and sold for the account of nonprofit food or milk service, and (iii) any payments made by the school to the student-operated facility, for labor and other costs in connection with the service of milk to children, bear a direct relationship to the amount of services rendered.

* * * * *

5. Paragraph (a) of § 215.10 *Reimbursement procedure* is amended to read:

§ 215.10 Reimbursement procedure.

(a) Each State Agency, or FDD where applicable, shall require schools to submit a "Claim for Reimbursement" on a calendar month basis: *Provided, however,* That not more than 10 days of a beginning or ending month of Program operations in the fiscal year may be combined with the claim of the month immediately following the beginning month or preceding the ending month. Any claim for reimbursement combining the ending month of one fiscal year and the beginning month of the next fiscal year shall not be permitted. Any Claim for Reimbursement for any fiscal year, not received by the State Agency, or FDD where applicable, within 90 days after the closing date of the fiscal year, shall be disqualified from payment, except where the State Agency, or FDD where applicable, considers that a Claim for Reimbursement has been filed late because of circumstances beyond the control of the school or child-care institution.

* * * * * *

Effective date: July 1, 1964.

Approved: October 22, 1964.

[SEAL] CHARLES S. MURPHY,
Acting Secretary.

[F.R. Doc. 64-10921; Filed, Oct. 26, 1964; 8:48 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[Sugar Determination 850.147]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

Proportionate Shares for Farms; 1965 Crop

Pursuant to the provisions of section 302 of the Sugar Act of 1948, as amended (61 Stat. 922), the following determination is hereby issued:

§ 850.147 National sugarbeet acreage requirement for 1965-crop year.

A national sugarbeet acreage requirement of 1,375,000 acres is hereby established for the 1965 crop of sugarbeets in the Domestic Beet Sugar Producing Area.

STATEMENT OF BASES AND CONSIDERATIONS

Recently, the major sugarbeet grower associations and all of the sugarbeet processors recommended that 1965-crop sugarbeet plantings be restricted to 1,375,000 acres.

Sugarbeet plantings increased from about 972,000 acres for the 1960 crop to about 1,460,000 acres for the 1964 crop. Two new beet factories which have acreage for new producers guaranteed under the national sugarbeet acreage reserve will begin operations in 1965 and will process sugarbeets from a total of about 60,000 acres.

In view of the foregoing, a national acreage limitation of 1,375,000 acres is established for the 1965 crop. It is hereby determined that this is the acreage required to enable the area to meet its quota and provide a normal carryover inventory.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the act.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. 1131, 1132)

Effective date: Date of publication.

Signed at Washington, D.C., on October 19, 1964.

CHARLES S. MURPHY,
Acting Secretary of Agriculture.

[F.R. Doc. 64-10897; Filed, Oct. 26, 1964; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 64-AL-8]

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

Alteration of Federal Airways

Amber Federal airway No. 1 is designated in part from the Hinchinbrook, Alaska, radio range station via the intersection of the northwest course of the Hinchinbrook radio range and the southeast course of the Anchorage, Alaska, radio range to the Anchorage radio range station. Blue Federal airway No. 25 is designated in part on the intersection of a direct line between the Whittier, Alaska, fan marker and the Middleton Island, Alaska, radio range and the southwest course of the Hinchinbrook, Alaska, radio range. The purpose of this amendment to Part 71 [New] of the Federal Aviation Regulations is to realign Amber 1 from the Hinchinbrook radio range via the Whittier, Alaska, radio beacon, to the Anchorage radio range station, and to redescribe the southern terminus of Blue 25.

The Whittier radio beacon was commissioned on August 25, 1964, at latitude 60°46′ N., longitude 148°42′ W. The realignment of Amber 1 as proposed herein will provide better navigational guidance along this airway segment and will relocate the centerline of this airway approximately 2.5 nautical miles north of its present location in the vicinity of Whittier. No other controlled airspace will be involved. The Whittier fan marker was decommissioned on June 15, 1964. Accordingly, action is taken herein to redescribe the southern terminus of Blue 25 as the intersection of a True bearing of 269° from the Middleton Island radio range and the southwest course of the Hinchinbrook radio range. The physical location of the southern terminus of Blue 25 will remain unchanged.

Since these changes are minor in nature and impose no undue burden on any person, notice and public procedure hereon are impracticable and unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will

become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 [New] of the Federal Aviation Regulations is amended effective 0001 e.s.t., January 7, 1965, as hereinafter set forth.

1. Section 71.105 (29 F.R. 1006) is amended as follows: In A–1 "INT of the NW course of the Hinchinbrook RR and the SE course of the Anchorage, Alaska, RR; Anchorage RR;" is deleted and "Whittier, Alaska, RBN; Anchorage, Alaska, R.R.;" is substituted therefor.

2. Section 71.109 (29 F.R. 1008, 6531) is amended as follows: In B–25 all before "via the Hinchinbrook R.R.;" is deleted and "From the INT of the SW course of Hinchinbrook, Alaska, R.R. and the 296° bearing from the Middleton Island, Alaska, RBN" is substituted therefor.

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

Issued in Washington, D.C., on October 19, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–10880; Filed, Oct. 26, 1964; 8:45 a.m.]

[Airspace Docket No. 63–SW–21]

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

Alteration of Control Zone and Designation of Transition Area

On August 21, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 11975) stating that the Federal Aviation Agency proposed to alter the controlled airspace in the Lake Charles, La., terminal area.

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

In consideration of the foregoing, Part 71 [New] of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 7, 1965, as hereinafter set forth.

1. In § 71.171 (29 F.R. 1129) the Lake Charles, La., control zone is amended to read as follows:

Lake Charles, La.

That airspace within a 5-mile radius of Lake Charles Municipal Airport (latitude 30°07'30" N., longitude 93°13'20" W.); within 2 miles each side of the Lake Charles VOR 259° radial extending from the 5-mile radius zone to 1 mile W of the VOR; within 2 miles each side of the Lake Charles ILS localizer NW course extending from the 5-mile radius zone to the OM; and within 2 miles each side of the Lake Charles ILS localizer SE course extending from the 5-mile radius zone to 6 miles SE of the airport.

2. In § 71.181 (29 F.R. 1160) the following transition area is added:

Lake Charles, La.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Lake Charles ILS localizer northwest course extending from the OM to 8 miles NW, within 2 miles each side of the Lake Charles VOR 259° radial extending from the VOR to 1 mile W, and within 2 miles each side of the Lake Charles ILS localizer SE course extending from the airport to 8 miles SE; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 30°-37'00" N., longitude 92°50'00" W. to latitude 30°24'00" N., longitude 92°26'00" W. to latitude 29°45'30" N., longitude 93°00'00" W. thence W via latitude 29°45'30" N., to and counterclockwise along the arc of a 25-mile radius circle centered at latitude 29°54'40" N., longitude 94°02'40" W., to longitude 93°-57'00" W., thence to point of beginning.

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

Issued in Fort Worth, Tex., on October 16, 1964.

ARCHIE W. LEAGUE,
Director, Southwest Region.

[F.R. Doc. 64–10883; Filed, Oct. 26, 1964; 8:45 a.m.]

[Airspace Docket No. 64–WA–40]

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

PART 75—ESTABLISHMENT OF JET ROUTES [NEW]

Alteration of Federal Airways and Jet Routes

The purpose of these amendments to Part 71 [New] and Part 75 [New] of the Federal Aviation Regulations is to alter certain transborder VOR airway and jet route designations between the United States and Canada.

The Canadian Department of Transport has advised that the Windsor, Ontario, VOR en route navigational facility will be relocated to a new site located at latitude 42°14'54" N., longitude 82°49'44" W., effective November 19, 1964. Action is taken herein for the following associated amendments:

1. Alter the segment of VOR Federal airway No. 2 from Salem, Mich., via the intersection of the Salem 083° and the Aylmer, Ontario, 260° True radials; to Aylmer.

2. Alter the segment of VOR Federal airway No. 42 from Flint, Mich., via the intersection of the Flint 133° and the Windsor, Ontario, 320° True radials; Windsor; to Cleveland, Ohio. After the segment of V–42 east alternate from Flint via the intersection of the Flint 118° and the Windsor 335° True radials; to Windsor reducing the east side of this alternate segment within the United States to three nautical miles east of the Windsor 335° True radial. Alter the segment of V–42 east alternate from Windsor via the intersection of the Windsor 134° and the Strongsville, Ohio, 342° True radials; to Strongsville.

3. Alter the segments of VOR Federal airway Nos. 90 and 810 from Litchfield, Mich., via the intersection of the Litchfield 081° and the Windsor 265° True radials to Windsor. Alter the segment of V–90 from Windsor via the intersection of the Windsor 083° and the Dunkirk, N.Y., 266° True radials. Alter V–90 north alternate segment from the Dolphin, Ont., Intersection via the Aylmer 235° True radial to Aylmer thence direct to Dunkirk.

4. Alter the segment of VOR Federal airway No. 103 from Akron, Ohio, via the intersection of the Akron 312° and the Windsor 134° True radials; to Windsor.

5. Alter the segments of VOR Federal airway Nos. 116, 810, and 880 from Windsor via the intersection of the Windsor 100° and the Erie, Pa., 275° True radials; to Erie.

6. Alter VOR Federal airway No. 224 from Carleton, Mich., to the intersection of the Carleton 082° and the Windsor 100° True radials.

7. Alter the segment of Jet Route No. 43 from Dayton, Ohio, via the intersection of the Dayton direct radial to Peck, Mich., and the Windsor 276° True radial.

8. Alter the segment of Jet Route No. 70 from Pullman, Mich., direct to Windsor.

9. Alter the segment of Jet Route No. 90 from Northbrook, Ill., via the intersection of the Northbrook 093° and the Windsor 263° True radials; to Windsor.

Since these amendments are minor in nature and impose no additional burden on any person, compliance with the publication provisions of Section 4 of the Administrative Procedure Act is unnecessary. In order to maintain compatibility with the Canadian portion of the airways and jet routes altered herein, the Administrator finds that good cause exists for making these amendments effective on less than 30 days notice.

In consideration of the foregoing, Part 71 [New] and Part 75 [New] of the Federal Aviation Regulations are amended, effective 0001 e.s.t., November 19, 1964, as hereinafter set forth.

1. Section 71.123 (29 F.R. 1009, 2693, 4671, 5316, 6530, 13137) is amended as follows:

a. In V–2 "INT of Salem 079° and Aylmer, Ont., Canada, 265° radials;" is deleted and "INT of Salem 083° and Aylmer, Ont., Canada, 260° radials;" is substituted therefor.

b. V–42 is amended to read:

V–42 From Flint, Mich., via INT of Flint 133° and Windsor, Ont., Canada, 320° radials; Windsor; including an E alternate via INT Flint 118° and Windsor 335° radials (7 miles wide (3 miles east and 4 miles west of the centerline) from the INT of Flint 118° and Windsor 335° radials to Windsor); Cleveland, Ohio; to Akron, Ohio, including an E alternate from Windsor to the INT of Strongsville, Ohio, 162° and Akron 289° radials via INT of Windsor 134° and Strongsville 342° radials, Strongsville. The airspace within Canada is excluded.

c. V–90 is amended to read:

V–90 From Litchfield, Mich., via INT of Litchfield 081° and Windsor, Ont., Canada, 265° radials; Windsor; INT of Windsor 083° and Dunkirk, N.Y., 266° radials; to Dunkirk, including an N alternate from INT of Windsor 083° and Dunkirk 266° radials to Dunkirk via Aylmer, Ont., Canada. The airspace within Canada is excluded.

d. In V–103 "to Windsor, Ontario, Canada." is deleted and "INT of Akron 312° and Windsor, Ont., Canada, 134° radials; to Windsor." is substituted therefor.

e. In V–116 "Erie, Pa.," is deleted and "INT of Windsor 100° and Erie, Pa., 275° radials; Erie;" is substituted therefor.

f. V–224 is amended to read:

V–224 From Carleton, Mich., to INT of Carleton 082° and Windsor, Ont., Canada, 100° radials. The airspace within Canada is excluded.

g. In V–810 "Windsor, Ontario, Canada; Erie, Pa.;" is deleted and "INT of Litchfield 081° and Windsor, Ont., Canada, 265° radials; Windsor; INT Windsor 100° and Erie, Pa., 275° radials; Erie;" is substituted therefor.

h. In V–880 "Windsor, Ontario, Canada;" is deleted and "INT of Erie 275° and Windsor, Ont., Canada, 100° radials; Windsor;" is substituted therefor.

2. Section 75.100 (29 F.R. 1287, 1561, 9534) is amended as follows:

a. In Jet Route No. 43 "and the Windsor, Ont., 278° radial." is deleted and "and the Windsor, Ont., 276° radial." is substituted therefor.

b. In Jet Route No. 70 everything after "Pullman, Mich.;" is deleted and "Windsor, Ont., Canada; Erie. Pa.; Huguenot, N.Y.; to Kennedy, N.Y. The portion within Canada is excluded." is substituted therefor.

c. In Jet Route No. 85 "to the INT of the Cleveland 328° radial and the United States/Canadian Border." is deleted and "to Windsor, Ont., Canada. The portion within Canada is excluded." is substituted therefor.

d. In Jet Route No. 90 everything after "Northbrook;" is deleted and "INT of the Northbrook 093° and the Windsor, Ont., Canada, 263° radials; to the INT of the Windsor 263° radial and the United States/Canadian Border." is substituted therefor.

e. In Jet Route No. 91 "to the INT of the Cleveland 328° radial and the United States/Canadian Border." is deleted and "to Windsor, Ont., Canada. The portion within Canada is excluded." is substituted therefor.

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

Issued in Washington, D.C., on October 19, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–10881; Filed, Oct. 26, 1964; 8:45 a.m.]

[Airspace Docket No. 63–WE–75]

PART 75—ESTABLISHMENT OF JET ROUTES [NEW]

Alteration of Jet Route

On September 25, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 10383) stating that the Federal Aviation Agency (FAA) proposed to alter the Denver, Colo., VORTAC to O'Neill, Nebr., VORTAC segment of Jet Route No. 30 to read from the Denver VORTAC via the Sidney, Nebr., VOR to the O'Neill VORTAC.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Due consideration was given to all relevant matter presented.

The Air Transport Association of America (ATA), while concurring in the proposal, suggested that the direct route be retained from Denver to O'Neill for use by those flights wishing to operate at and above flight level 270. After careful consideration the Agency has determined that it is desirable to retain the existing alignment of J–30 as well as to provide an additional route via Sidney as proposed in the notice for aircraft operations between flight level 180 and flight level 260.

In consideration of the foregoing, Part 75 [New] of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 10, 1964, as hereinafter set forth.

In § 75.100 (29 F.R. 1287, 11915), Jet Route No. 10 is amended as follows: In the caption "Denver, Colo." is deleted, and "O'Neill, Nebr." is substituted therefor. In the text, "Gunnison, Colo., to Denver, Colo." is deleted and "Gunnison, Colo.; Denver, Colo.; Sidney, Nebr.; to O'Neill, Nebr." is substituted therefor.

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

Issued in Washington, D.C., on October 19, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–10882; Filed, Oct. 26, 1964; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C–846]

PART 13—PROHIBITED TRADE PRACTICES

Alfred Boge Furriers and Alfred Boge

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices:* 13.155–70 Percentage savings. Subpart—Invoicing products falsely: §13.1108 *Composition:* 13.1108–45 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845–30 Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–35 Fur Products Labeling Act; § 13.1865 *Manufacture or preparation:* 13.1865–40 Fur Products Labeling Act; § 13.1900 *Source or origin:* 13.1900–40 Fur Products Labeling Act: 13.1900–40 (b) Place.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Alfred Boge Furriers, et al., Spokane, Wash., Docket C–846, Oct. 7, 1964]

In the Matter of Alfred Boge Furriers, a Corporation, and Alfred Boge, Individually and as an Officer of Said Corporation

Consent order requiring retail furriers in Spokane, Wash., to cease violating the Fur Products Labeling Act by such practices as failing, in invoicing and advertising, to show the true animal name of fur used in fur products and to use the term "natural" to describe fur that was not artificially colored; abbreviating required information on invoices; failing, in newspaper advertising, to disclose when fur was bleached or dyed and to show the country of origin of imported furs; and representing falsely that purchasers could "Save 20–30% on our entire collection"; and failing to keep adequate records as a basis for pricing claims.

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

It is ordered, That respondents Alfred Boge Furriers, a corporation, and its officers, and Alfred Boge, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to be disclosed in each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

3. Failing to set forth the term "natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and rules and regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

B. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale, or offering for sale of any fur products, and which:

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(a) of the Fur Products Labeling Act.

2. Fails to set forth the term "natural" as part of the information required to be disclosed in advertisements under the Fur Products Labeling Act and the rules and regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

3. Misrepresents in any manner the savings available to purchasers of respondents' fur products.

4. Falsely or deceptively represents in any manner that prices of respondents' fur products are reduced.

5. Represents directly or by implication through percentage savings claims that prices of fur products are reduced to afford purchasers of respondents' fur products the percentage of savings stated when the prices of such fur products are not reduced to afford to purchasers the percentage of savings stated.

C. Making claims and representations of the types covered by subsections (a), (b), (c), and (d) of Rule 44 of the rules and regulations promulgated under the Fur Products Labeling Act unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

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: October 7, 1964.

By the Commission.

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

[F.R. Doc. 64-10887; Filed, Oct. 26, 1964; 8:46 a.m.]

[Docket No. C-845]

PART 13—PROHIBITED TRADE PRACTICES

History Book Club, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* § 13.15-25 Concealed subsidiary, fictitious collection agency, etc. Subpart—Threatening suits, not in good faith: § 13.2264 *Delinquent debt collection.* Subpart—Using misleading name—vendor: § 13.2365 *Concealed subsidiary, fictitious collection agency, etc.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, The History Book Club, Inc., et al., Docket C-845, Oct. 7, 1964]

In the Matter of The History Book Club, Inc., a Corporation, and Frank Melville and John R. Gibb, Individually and as Officers of Said Corporation

Consent order requiring book sellers in Stamford, Conn., to cease representing falsely, in letters and notices to purportedly delinquent customers that if payment was not made, the delinquent's name was transmitted to an independent credit reporting agency and his credit rating would be adversely affected, or it would be turned over to an outside attorney for legal steps; and by use of the fictitious letterhead "The Mail Order Credit Reporting Association, Inc.", that a separate collection agency of that name was handling the account.

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

It is ordered, That respondent The History Book Club, Inc., a corporation, and its officers, and Frank Melville and John R. Gibb individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of books, publications or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication that:

1. A customer's name will be or has been turned over to a bona fide credit reporting agency or that a customer's general or public credit rating will be adversely affected unless respondents establish that where payment is not received the information of said delinquency is referred to a separate, bona fide credit reporting agency.

2. Delinquent accounts will be or have been turned over to a bona fide, separate collection agency unless respondents in fact turn such accounts over to such agencies.

3. Delinquent accounts will be turned over to an attorney to institute suit or other legal action where payment is not made, unless respondents establish that such is the fact.

4. Delinquent accounts will be or have been turned over to "The Mail Order Credit Reporting Association, Inc." for collection or any other purpose.

5. "The Mail Order Credit Reporting Association, Inc.", any other fictitious name, or any trade name owned in whole or in part by respondents or over which respondents exercise any direction or control is an independent, bona fide collection or credit reporting agency.

6. Letters, notices or other communications in connection with the collection of respondents' accounts which have been prepared or originated by respondents, have been prepared or originated by any other person, firm or corporation.

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: October 7, 1964.

By the Commission.

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

[F.R. Doc. 64-10888; Filed, Oct. 26, 1964; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

PART 15—CEREAL FLOURS AND RELATED PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

Subpart A—Wheat Flour and Related Products

FLOUR, DURUM FLOUR, WHOLE WHEAT FLOUR; ORDER AMENDING IDENTITY STANDARDS

In the matter of amending the identity standards for flour and whole wheat flour (21 CFR 15.1, 15.80), to provide for increases in the malted barley flour content, and flour and durum flour (21 CFR 15.1, 15.40), to permit coarser granulation and prescribe testing methods.

The Commissioner of Food and Drugs has considered the comments filed in response to the notice of proposed rulemaking in the above-identified matter, published in the FEDERAL REGISTER of June 6, 1964 (29 F.R. 7392), and other relevant information, and has concluded that it will promote honesty and fair dealing in the interest of consumers to adopt the amendments as proposed, with minor editorial changes.

Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated by him to the Comissioner (21 CFR 2.90; 29 F.R. 471); *It is ordered,* That the identity standards for flour, durum flour, and whole wheat flour be amended as follows:

1. Section 15.1 is amended by changing the introduction to paragraph (a) and by adding to paragraph (c) a new subparagraph (4). The affected portions read as follows:

§ 15.1 Flour, white flour, wheat flour, plain flour; identity; label statement of optional ingredients.

(a) Flour, white flour, wheat flour, plain flour, is the food prepared by grinding and bolting cleaned wheat, other than durum wheat and red durum wheat. To compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted barley flour so used is not more than 0.75 percent. When tested for granulation as prescribed in paragraph (c)(4) of this section, not less than 98 percent of the flour passes through a cloth having openings not larger than those of woven wire cloth designated "210 micron (No. 70)" in Table I of "Standard Specification for Sieves," published March 1, 1940, in L. C. 584 of the United States Department of Commerce, National Bureau of Standards. The flour is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than the sum of $\frac{1}{20}$ of the percent of protein therein, calculated to a moisture-free basis, plus 0.35. Its moisture content is not more than 15 percent. Unless such addition conceals damage or inferiority or makes the flour appear to be better or of greater value than it is, one or any combination of two or more of the following optional bleaching ingredients may be added in a quantity not more than sufficient for bleaching or, in case such ingredient has an artificial aging effect, in a quantity not more than sufficient for bleaching and such artificial aging effect:

* * * * *

(c) * * *

(4) Granulation is determined as follows: Use No. 70 sieve complying with specifications for wire cloth and sieve frames in "Standard Specifications for

Sieves," published March 1, 1940, in L. C. 584 of the United States Department of Commerce, National Bureau of Standards. Attach bottom pan to sieve in Ro-Tap sifter (or an equivalent sifter). Place half of a rubber ball or other sieving aid in the sieve. Pour 100 grams of the sample in the sieve and turn on the sifter with knocker. Sift exactly 5 minutes. Weigh the residue on the No. 70 sieve and convert to percentage.

2. Section 15.40 is amended to read as follows:

§ 15.40 Durum flour; identity.

(a) Durum flour is the food prepared by grinding and bolting cleaned durum wheat. When tested for granulation as prescribed in § 15.1(c)(4), not less than 98 percent of such flour passes through the No. 70 sieve. It is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than 1.5 percent. Its moisture content is not more than 15 percent.

(b) For the purpose of this section, ash, moisture, and granulation are determined by the methods prescribed in § 15.1(c).

3. Section 15.80 is amended by changing paragraph (a) to read as follows:

§ 15.80 Whole wheat flour, graham flour, entire wheat flour; identity; label statement of optional ingredients.

(a) Whole wheat flour, graham flour, entire wheat flour, is the food prepared by so grinding cleaned wheat, other than durum wheat and red durum wheat that, when tested by the method prescribed in paragraph (c)(2) of this section, not less than 90 percent passes through a No. 8 sieve and not less than 50 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. To compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted barley flour so used is not more than 0.75 percent. The moisture content of whole wheat flour is not more than 15 percent. Unless such addition conceals damage or inferiority or makes the whole wheat flour appear to be better or of greater value than it is, the optional bleaching ingredient azodicarbonamide (complying with the requirements of section 121.1085 of this chapter, including the quantitative limit of not more than 45 parts per million), or chlorine dioxide, or chlorine, or a mixture of nitrosyl chloride and chlorine may be added in a quantity not more than sufficient for bleaching and artificial aging effects.

* * * * *

Because of the cross-references, amendments to §§ 15.1 and 15.80 in this order are applicable to other identity standards as follows:

The amendments ordered for § 15.1 become applicable to: § 15.10 *Enriched flour* * * *; § 15.20 *Bromated flour* * * *; § 15.30 *Enriched bromated flour* * * *; § 15.50 *Self-rising flour* * **; § 15.60 *Enriched self-rising flour* * * *; and § 15.70 *Phosphated flour* * * *.

The amendments ordered for § 15.80 become applicable to: § 15.90 *Bromated whole wheat flour* * * * and § 15.100 *Whole durum wheat flour* * * *.

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, D.C., 20201, written objection thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: October 19, 1964.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 64-10926; Filed, Oct. 26, 1964; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

Subpart D—Food Additives Permitted in Food for Human Consumption

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Procaine Penicillin G, Dihydrostreptomycin Sulfate, Prednisone Acetate

1. The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP 1163), filed by Shering Corporation, Bloomfield, New Jersey, and other relevant material, has concluded that § 121.249 should be amended to provide for the use of an additional formulation for use in milk-producing animals. 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 (21 CFR 2.90; 29 F.R. 471), § 121.249 is amended by adding to paragraph (a) a new subparagraph (4), as follows:

§ 121.249 Food additives for use in milk-producing animals.

* * * * *

(a) * * *

(4)(i) It contains the following in each 8 grams of suspension:

Ingredients:	*Quantity*
Prednisone acetate	4 mg.
Procaine penicillin G	100,000 units.
Dihydrostreptomycin (sulfate).	300 mg.
Methylparaben	0.1%.
Propylparaben	0.025%.
Vehicle: Peanut oil containing 2% aluminum monostearate; 6.3% polyoxyethylene sorbitan tristearate.	*Inert propellant* Dichlorodifluoromethane; dichlorotetrafluoroethane; nitrogen.

Treat cows with dosage consisting of 8 grams of suspension, expressed as a metered dose, from pressurized containers in each infected quarter immediately after milking, and allow to remain in the quarter until the next milking. Repeat at 12-hour intervals if necessary.

(ii) Milk that has been taken from animals during treatment and for 72 hours (6 milkings) after the latest treatment must not be used for food.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

2. The Commissioner of Food and Drugs has further concluded, based upon an evaluation of the data before him and proceeding under the authority of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4)), that where milk-producing animals are treated for bovine mastitis in accordance with § 121.249(a)(4), zero tolerance limitations are required for the formulation ingredients prednisone, methylparaben, and propylparaben, in order to assure that milk from treated animals is safe for human consumption. Zero tolerances have been previously established for residues of penicillin and dihydrostreptomycin in milk. Therefore, Subpart D is amended by adding thereto the following new sections:

§ 121.1157 Prednisone.

A tolerance of zero is established for residues prednisone in milk from dairy animals.

§ 121.1158 Methylparaben.

A tolerance of zero is established for residues of methylparaben in milk from dairy animals.

§ 121.1159 Propylparaben.

A tolerance of zero is established for residues of propylparaben in milk from dairy animals.

(Sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4))

3. Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug and Cosmetic Act (sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 2.90; 29 F.R.

471), the regulations for the certification of penicillin and penicillin-containing drugs are amended as follows:

Section 146a.57(a)(2) is amended by adding thereto a new sentence as indicated below. As amended, this subparagraph reads:

§ 146a.57 Procaine penicillin and streptomycin in oil; procaine penicillin and dihydrostreptomycin in oil.

(a) * * *

(2) It may contain cortisone or a suitable derivative of cortisone, a suitable and harmless salt of cobalt and/or one or more suitable sulfonamides and papain, if it is intended solely for udder instillations of cattle, each of which, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium. If it is intended solely for udder instillations of cattle it may be packaged in containers with one or more suitable inert gases.

* * * * *

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.

(Secs. 409(c)(1), (4), 507, 72 Stat. 1786; 59 Stat. 463 as amended; 21 U.S.C. 348(c)(1), (4), 357)

Dated: October 19, 1964.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 64-10927; Filed, Oct. 26, 1964; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

SYNTHETIC FLAVORING SUBSTANCES AND ADJUVANTS

The Commissioner of Food and Drugs proposed on May 27, 1964 (29 F.R. 6957), a regulation specifying the safety in food of a number of synthetic substances used as flavors or flavor adjuvants. No comments were received which related to questions of safety. The comments received relative to nomenclature have been duly noted.

The Commissioner has concluded that the regulation should be adopted as proposed, except that changes have been made in the names of some of the items included in the original list to effect uniformity with recognized conventions of chemical nomenclature adopted by the American Chemical Society, and the item "Alginates, sodium, calcium, and ammonium" has been deleted, since these substances are generally recognized as safe in food, and require no listing.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.90; 29 F.R. 471), Part 121 is amended by adding a new section to Subpart D, as follows:

§ 121.1164 Synthetic flavoring substances and adjuvants.

Synthetic flavoring substances and adjuvants may be safely used in food in accordance with the following conditions.

(a) They are used in the minimum quantity required to produce their intended effect, and otherwise in accordance with all the principles of good manufacturing practice.

(b) They consist of one or more of the following, used alone or in combination with flavoring substances and adjuvants generally recognized as safe in food, prior-sanctioned for such use, or regulated by an appropriate section in Subpart D of the food additive regulations.

Acetal; acetaldehyde diethyl acetal.
Acetaldehyde phenethyl propyl acetal.
Acetanisole; 4'-methoxyacetophenone.
Adipic acid; 1,4-butanedicarboxylic acid.
Alginates, sodium, calcium and ammonium.
Allyl anthranilate.
Allyl cinnamate.
Allyl cyclohexaneacetate.
Allyl cyclohexanebutyrate.
Allyl cyclohexanehexanoate.
Allyl cyclohexanepropionate.
Allyl cyclohexanevalerate.
Allyl disulfide.
Allyl 2-ethylbutyrate.
Allyl α-ionone; 1-(2,6,6-trimethyl-2-cyclohexen-1-yl)-1,6-heptadiene-3-one.
Allyl isothiocyanate; mustard oil.
Allyl isovalerate.
Allyl mercaptan; 2-propene-1-thiol.
Allyl nonanoate.
Allyl octanoate.
Allyl phenoxyacetate.
Allyl phenylacetate.
Allyl propionate.
Allyl sorbate; allyl 2,4-hexadienoate.
Allyl sulfide.
Allyl tiglate; allyl *trans*-2-methyl-2-butenoate.
Allyl 10-undecenoate.
Ammonium isovalerate.
Ammonium sulfide.
Amyl alcohol; pentyl alcohol.
Amyl butyrate.
α-Amylcinnamaldehyde.
α-Amylcinnamaldehyde dimethyl acetal.
α-Amylcinnamyl acetate.
α-Amylcinnamyl alcohol.
α-Amylcinnamyl formate.
α-Amylcinnamyl isovalerate.
Amyl formate.
Amyl heptanoate.
Amyl hexanoate.
Amyl octanoate.
Anisole; methoxybenzene.
Anisyl acetate.
Anisyl alcohol; *p*-methoxybenzyl alcohol.
Anisyl butyrate.
Anisyl formate.
Anisyl propionate.
Benzaldehyde dimethyl acetal.
Benzaldehyde glyceryl acetal; 2-phenyl-*m*-dioxan-5-ol.
Benzaldehyde propylene glycol acetal; 4-methyl-2-phenyl-*m*-dioxolane.
Benzoin; 2-hydroxy-2-phenylacetophenone.
Benzophenone; diphenylketone.
Benzyl acetate.
Benzyl acetoacetate.
Benzyl alcohol.
Benzyl benzoate.
Benzyl butyrate.
Benzyl cinnamate.
Benzyl 2,3-dimethylcrotonate; benzyl methyl tiglate.
Benzyl formate.
3-Benzyl-4-heptanone; benzyl dipropyl ketone.
Benzyl isobutyrate.
Benzyl isovalerate.
Benzyl mercaptan; α-toluenethiol.
Benzyl methoxyethyl acetal; acetaldehyde benzyl β-methoxyethyl acetal.
Benzyl phenylacetate.
Benzyl propionate.
Benzyl salicylate.
Birch tar oil.
Borneol; *d*-camphanol.
Bornyl acetate.
Bornyl formate.
Bornyl isovalerate.
Bornyl valerate.
2-Butanone; methyl ethyl ketone.
Butter acids.
Butter esters.
Butter starter distillate.
Butyl acetate.
Butyl acetoacetate.
Butyl alcohol; 1-butanol.
Butyl anthranilate.
Butyl butyrate.
Butyl butyryllactate; lactic acid, butyl ester, butyrate.
α-Butylcinnamaldehyde.
Butyl cinnamate.
Butyl 2-decenoate.
Butyl formate.
Butyl heptanoate.
Butyl hexanoate.
Butyl *p*-hydroxybenzoate.
Butyl isobutyrate.
Butyl isovalerate.
Butyl lactate.
Butyl laurate.
Butyl levulinate.
Butyl phenylacetate.
Butyl propionate.
Butyl stearate.
Butyl sulfide.
Butyl 10-undecenoate.
Butyl valerate.
Butyraldehyde.
Butyrin; tributyrin; glyceryl tributyrate.
Cadinene.
Camphene; 2,2-dimethyl-3-methylenenorbornane.
d-Camphor.
Carvacrol; 2-*p*-cymenol.
Carveol; *p*-mentha-6,8-dien-2-ol.
Carvacryl ethyl ether; 2-ethoxy-*p*-cymene.
4-Carvomenthenol; 1-*p*-menthen-4-ol; 4-terpinenol.
Carvyl acetate.
Carvyl propionate.
β-Caryophyllene.
Cinnamaldehyde ethylene glycol acetal.
Cinnamic acid.
Cinnamyl acetate.
Cinnamyl alcohol; 3-phenyl-2-propen-1-ol.
Cinnamyl anthranilate.
Cinnamyl butyrate.
Cinnamyl cinnamate.
Cinnamyl formate.
Cinnamyl isobutyrate.
Cinnamyl isovalerate.
Cinnamyl phenylacetate.
Cinnamyl propionate.
Citral diethyl acetal; 3,7-dimethyl-2,6-octadienal diethyl acetal.

Citral dimethyl acetal; 3,7-dimethyl-2,6-octadienal dimethyl acetal.
Citronellal; 3,7-dimethyl-6-octenal; rhodinal.
Citronellol; 3,7-dimethyl-6-octen-1-ol; *d*-citronellol.
Citronelloxyacetaldehyde.
Citronellyl acetate.
Citronellyl butyrate.
Citronellyl formate.
Citronellyl isobutyrate.
Citronellyl phenylacetate.
Citronellyl propionate.
Citronellyl valerate.
p-Cresol.
Cuminaldehyde; cuminal; *p*-isopropyl benzaldehyde.
Cyclohexaneacetic acid.
Cyclohexaneethyl acetate.
Cyclohexyl acetate.
Cyclohexyl anthranilate.
Cyclohexyl butyrate.
Cyclohexyl cinnamate.
Cyclohexyl formate.
Cyclohexyl isovalerate.
Cyclohexyl propionate.
p-Cymene.
γ-Decalactone; 4-hydroxy-decanoic acid, γ-lactone.
δ-Decalactone; 5-hydroxy-decanoic acid, δ-lactone.
Decanal dimethyl acetal.
1-Decanol; decylic alcohol.
2-Decenal.
Decyl actate.
Decyl butyrate.
Decyl propionate.
Dibenzyl ether.
4,4-Dibutyl-γ-butyrolactone; 4,4-dibutyl-4-hydroxy-butyric acid, γ-lactone.
Dibutyl sebacate.
Diethyl malate.
Diethyl sebacate.
Diethyl succinate.
Diethyl tartrate.
Dihydrocarveol; 8-*p*-menthen-2-ol; 6-methyl-3-isopropenylcyclohexanol.
Dihydrocarvyl acetate.
m-Dimethoxybenzene.
p-Dimethoxybenzene; dimethyl hydroquinone.
2,4-Dimethylacetophenone.
α,α-Dimethylbenzyl isobutyrate; phenyldimethylcarbinyl isobutyrate.
2,6-Dimethyl-5-heptenal.
2,6-Dimethyl octanal; isodecylaldehyde.
3,7-Dimethyl-1-octanol; tetrahydrogeraniol.
α,α-Dimethylphenethyl acetate; benzylpropyl acetate; benzyldimethylcarbinyl acetate.
α,α-Dimethylphenethyl alcohol; dimethylbenzyl carbinol.
α,α-Dimethylphenethyl butyrate; benzyldimethylcarbinyl butyrate.
α,α-Dimethylphenethyl formate; benzyldimethylcarbinyl formate.
Dimethyl succinate.
1,3-Diphenyl-2-propanone; dibenzyl ketone.
γ-Dodecalactone; 4-hydroxydodecanoic acid, γ-lactone.
2-Dodecenal.
Estragole.
p-Ethoxybenzaldehyde.
Ethyl acetoacetate.
Ethyl 2-acetyl-3-phenylpropionate; ethylbenzyl acetoacetate.
Ethyl aconitate, mixed esters.
Ethyl acrylate.
Ethyl *p*-anisate.
Ethyl anthranilate.
Ethyl benzoate.
Ethyl benzoylacetate.
α-Ethylbenzyl butyrate; α-phenylpropyl butyrate.
2-Ethylbutyl actate.
2-Ethylbutyraldehyde.
2-Ethylbutyric acid.
Ethyl cinnamate.
Ethyl cyclohexanepropionate.
Ethyl decanoate.
Ethyl formate.
Ethyl 2-furanpropionate.
4-Ethylguaiacol; 4-ethyl-2-methoxyphenol.
Ethyl heptanoate.
2-Ethyl-2-heptenal; 2-ethyl-3-butylacrolein.
Ethyl hexanoate.
Ethyl isobutyrate.
Ethyl isovalerate.
Ethyl lactate.
Ethyl laurate.
Ethyl levulinate.
Ethyl myristate.
Ethyl nitrite.
Ethyl nonanoate.
Ethyl 2-nonynoate; ethyl octyne carbonate.
Ethyl octanoate.
Ethyl oleate.
Ethyl phenylacetate.
Ethyl 4-phenylbutyrate.
Ethyl 3-phenylglycidate.
Ethyl 3-phenylpropionate; ethyl hydrocinnamate.
Ethyl propionate.
Ethyl pyruvate.
Ethyl salicylate.
Ethyl sorbate; ethyl 2,4-hexadienoate.
Ethyl tiglate; ethyl *trans*-2-methyl-2-butenoate.
Ethyl 10-undecenoate.
Ethyl valerate.
Eucalyptol; 1,8-epoxy-*p*-menthane; cineole.
Eugenyl benzoate.
Eugenyl formate.
Eugenyl methyl ether; 4-allylveratrole; methyl eugenol.
Farnesol; 3,7,11-trimethyl-2,6,10-dodecatrien-1-ol.
d-Fenchone; *d*-1,3,3-trimethyl-2-norbornanone.
Fenchyl alcohol; 1,3,3-trimethyl-2-norbornanol.
Formic acid.
(2-Furyl)-2-propanone; furyl acetone.
1-Furyl-2-propanone; furyl acetone.
Fusel oil, refined (mixed amyl alcohols).
Geranyl acetoacetate; *trans*-3,7-dimethyl-2,6-octadien-1-yl acetoacetate.
Geranyl benzoate.
Geranyl butyrate.
Geranyl formate.
Geranyl hexanoate.
Geranyl isobutyrate.
Geranyl isovalerate.
Geranyl phenylacetate.
Geranyl propionate.
Glucose pentaacetate.
Glyceryl monooleate.
Guaiacol; *o*-methoxyphenol.
Guaiacyl phenylacetate.
γ-Heptalactone; 4-hydroxyheptanoic acid, γ-lactone.
Heptanal; enanthaldehyde.
Heptanal dimethyl acetal.
Heptanal 1,2-glyceryl acetal.
2,3-Heptanedione; acetyl valeryl.
2-Heptanone; methyl amyl ketone.
3-Heptanone; ethyl butyl ketone.
4-Heptanone; dipropyl ketone.
Heptyl acetate.
Heptyl alcohol; enanthic alcohol.
Heptyl butyrate.
Heptyl cinnamate.
Heptyl formate.
Heptyl isobutyrate.
Heptyl octanoate.
1-Hexadecanol; cetyl alcohol.
ω-6-Hexadecenlactone; 16-hydroxy-6-hexadecenoic acid, ω-lactone; ambrettolide.
γ-Hexalactone; 4-hydroxyhexanoic acid, γ-lactone; tonkalide.
Hexanal; caproic aldehyde.
2,3-Hexanedione; acetyl butyryl.
Hexanoic acid; caproic acid.
2-Hexenal.
2-Hexen-1-ol.
3-Hexen-1-ol; leaf alcohol.
2-Hexen-1-yl acetate.
Hexyl acetate.
2-Hexyl-4-acetoxytetrahydrofuran.
Hexyl alcohol.
Hexyl butyrate.
α-Hexylcinnamaldehyde.
Hexyl formate.
Hexyl hexanoate.
Hexyl octanoate.
Hexyl propionate.
Hydroxycitronellal; 3,7-dimethyl-7-hydroxyoctanal.
Hydroxycitronellal diethyl acetal.
Hydroxycitronellal dimethyl acetal.
Hydroxycitronellol; 3,7-dimethyl-1,7-octanediol.
N-(4-Hydroxy-3-methoxybenzyl)-nonanamide; pelargonyl vanillylamide.
5-Hydroxy-4-octanone; butyroin.
4-(*p*-Hydroxyphenyl-2-butanone; *p*-hydroxybenzyl acetone.
Indole.
α-Ionone; 4-(2,6,6-trimethyl-2-cyclohexen-1-yl)-3-buten-2-one.
β-Ionone; 4-(2,6,6-trimethyl-1-cyclohexen-1-yl)-3-buten-2-one.
α-Irone; 4-(2,5,6,6-tetramethyl-2-cyclohexene-1-yl)-3-buten-2-one; 6-methyl-ionone.
Isoamyl acetate.
Isoamyl alcohol; isopentyl alcohol; 3-methyl-1-butanol.
Isoamyl benzoate.
Isoamyl butyrate.
Isoamyl cinnamate.
Isoamyl formate.
Isoamyl 2-furanbutyrate; α-isoamyl furfurylpropionate.
Isoamyl 2-furanpropionate; α-isoamyl furfurylacetate.
Isoamyl hexanoate.
Isoamyl isovalerate.
Isoamyl laurate.
Isoamyl nonanoate.
Isoamyl octanoate.
Isoamyl phenylacetate.
Isoamyl propionate.
Isoamyl pyruvate.
Isoamyl salicylate.
Isoborneol.
Isobornyl acetate.
Isobornyl formate.
Isobornyl isovalerate.
Isobornyl propionate.
Isobutyl acetate.
Isobutyl acetoacetate.
Isobutyl alcohol.
Isobutyl angelate; isobutyl *cis*-2-methyl-2-butenoate.
Isobutyl anthranilate.
Isobutyl benzoate.
Isobutyl butyrate.
Isobutyl cinnamate.
Isobutyl formate.
Isobutyl 2-furanpropionate.
Isobutyl heptanoate.
Isobutyl hexanoate.
Isobutyl isobutyrate.
α-Isobutylphenethyl alcohol; isobutyl benzyl carbinol; 4-methyl-1-phenyl-2-pentanol.
Isobutyl phenylacetate.
Isobutyl propionate.
Isobutyl salicylate.
Isobutyraldehyde.
Isobutyric acid.
Isoeugenol; 2-methoxy-4-propenylphenol.
Isoeugenyl acetate.
Isoeugenyl ethyl ether; 2-ethoxy-5-propenylanisole; ethyl isoeugenol.
Isoeugenyl formate.
Isoeugenyl methyl ether; 4-propenylveratrole; methyl isoeugenol.
Isoeugenyl phenylacetate.
α-Isomethylionone; 4-(2,6,6-trimethyl-2-cyclohexen-1-yl)-3-methyl-3-buten-2-one; methyl γ-ionone.
Isopropyl acetate.
p-Isopropylacetophenone.
Isopropyl benzoate.
p-Isopropylbenzyl alcohol; cuminic alcohol; *p*-cymen-7-ol.
Isopropyl butyrate.
Isopropyl cinnamate.
Isopropyl formate.
Isopropyl hexanoate.
Isopropyl isobutyrate.
Isopropyl isovalerate.
p-Isopropylphenylacetaldehyde; *p*-cymen-7-carboxaldehyde.

Isopropyl phenylacetate.
3-(*p*-Isopropylphenyl)-propionaldehyde; *p*-isopropylhydrocinnamaldehyde; cuminyl acetaldehyde.
Isopropyl propionate.
Isopulegol; *p*-menth-8-en-3-ol.
Isopulegone; *p*-menth-8-en-3-one.
Isopulegyl acetate.
Isoquinoline.
Isovaleric acid.
Lauric aldehyde; dodecanal.
Lauryl acetate.
Lauryl alcohol; 1-dodecanol.
Levulinic acid.
Linalyl anthranilate; 3,7-dimethyl-1, 6-octadien-3-yl anthranilate.
Linalyl benzoate.
Linalyl butyrate.
Linalyl formate.
Linalyl hexanoate.
Linalyl isobutyrate.
Linalyl isovalerate.
Linalyl octanoate.
Linalyl propionate.
Maltol; 3-hydroxy-2-methyl-4H-pyran-4-one.
p-Mentha-1,8-dien-7-ol; perillyl alcohol.
Menthol; 2-isopropyl-5-methylcyclohexanol.
Menthone; *p*-menthan-3-one.
Menthyl acetate; *p*-menth-3-yl acetate.
Menthyl isovalerate; *p*-menth-3-yl isovalerate.
o-Methoxybenzaldehyde.
p-Methoxybenzaldehyde; *p*-anisaldehyde.
o-Methoxycinnamaldehyde.
2-Methoxy-4-methylphenol; 4-methylguaiacol; 2-methoxy-*p*-cresol.
4-(*p*-Methoxyphenyl)-2-butanone; anisyl acetone.
1-(*p*-Methoxyphenyl)-1-penten-3-one; α-methylanisylidene acetone; ethone.
1-(*p*-Methoxyphenyl)-2-propanone; anisyl methyl ketone; anisic ketone.
2-Methoxy-4-vinylphenol; *p*-vinylguaiacol.
Methyl acetate.
4'-Methylacetophenone; *p*-methylacetophenone; methyl *p*-tolyl ketone.
2-Methylallyl butyrate; 2-methyl-2-propen-1-yl butyrate.
Methyl anisate.
o-Methylanisole; *o*-cresyl methyl ether.
p-Methylanisole; *p*-cresyl methyl ether; *p*-methoxytoluene.
Methyl benzoate.
α-Methylbenzyl acetate; styralyl acetate.
α-Methylbenzyl alcohol; styralyl alcohol.
α-Methylbenzyl butyrate; stralyl butyrate.
α-Methylbenzyl isobutyrate; styralyl isobutyrate.
α-Methylbenzyl formate; styralyl formate.
α-Methylbenzyl propionate; styralyl propionate.
Methyl *p*-*tert*-butylphenylacetate.
2-Methylbutyraldehyde; methyl ethyl acetaldehyde.
3-Methylbutyraldehyde; isovaleraldehyde.
Methyl butyrate.
2-Methylbutyric acid.
α-Methylcinnamaldehyde.
Methyl cinnamate.
Methylcyclopentenolone; 3-methylcyclopentane-1,2-dione.
Methyl heptanoate.
2-Methylheptanoic acid.
6-Methyl-5-hepten-2-one.
Methyl hexanoate.
Methyl 2-hexenoate.
Methyl *p*-hydroxybenzoate; methylparaben.
Methyl α-ionone; 5-(2,6,6-trimethyl-2-cyclohexen-1-yl)-4-penten-3-one.
Methyl β-ionone; 5-(2,6,6-trimethyl-1-cyclohexen-1-yl)-4-penten-3-one.
Methyl δ-ionone; 5-(2,6,6-trimethyl-3-cyclohexen-1-yl)-4-penten-3-one.
Methyl isobutyrate.
2-Methyl-3-(*p*-isopropylphenyl)-propionaldehyde; α-methyl-*p*-isopropylhydrocinnamaldehyde; cyclamen aldehyde.
Methyl isovalerate.
Methyl laurate.
Methyl mercaptan; methanethiol.
Methyl *o*-methoxybenzoate.
Methyl *N*-methylanthranilate; dimethyl anthranilate.
Methyl 2-methylthiopropionate.
Methyl 4-methylvalerate.
Methyl myristate.
Methyl β-naphthyl ketone; 2'-acetonaphthone.
Methyl nonanoate.
Methyl 2-nonenoate.
Methyl 2-nonynoate; methyloctyne carbonate.
2-Methyloctanal; methyl hexyl acetaldehyde.
Methyl octanoate.
Methyl 2-octynoate; methyl heptine carbonate.
4-Methyl-2,3-pentanedione; acetyl isobutyryl.
4-Methyl-2-pentanone; methyl isobutyl ketone.
β-Methylphenethyl alcohol; hydratropyl alcohol.
Methyl phenylacetate.
3-Methyl-4-phenyl-3-butene-2-one.
2-Methyl-4-phenyl-2-butyl acetate; dimethylphenylethyl carbinyl acetate.
2-Methyl-4-phenyl-2-butyl isobutyrate; dimethylphenyl-ethylcarbinyl isobutyrate.
3-Methyl-2-phenylbutyraldehyde; α-isopropyl phenylacetaldehyde.
Methyl 4-phenylbutyrate.
4-Methyl-1-phenyl-2-pentanone; benzyl isobutyl ketone.
Methyl 3-phenylpropionate; methyl hydrocinnamate.
Methyl propionate.
Methyl sulfide.
2-Methylthiopropionaldehyde; methional.
2-Methyl-3-tolylpropionaldehyde, mixed *o*-, *m*-, *p*-.
2-Methylundecanal; methyl nonyl acetaldehyde.
Methyl 9-undecenoate.
Methyl 2-undecynoate; methyl decyne carbonate.
Methyl valerate.
2-Methylvaleric acid.
Myrcene; 7-methyl-3-methylene-1,6-octadiene.
Myristaldehyde; tetradecanal.
d-Neomenthol; 2-isobutyl-5-methylcyclohexonol.
Nerol; *cis*-3,7-dimethyl-2,6-octadien-1-ol.
Nerolidol; 3,7,11-trimethyl-1,6,10-dodecatrien-3-ol.
Neryl acetate.
Neryl butyrate.
Neryl formate.
Neryl isobutyrate.
Neryl isovalerate.
Neryl propionate.
2,6-Nonadien-1-ol.
γ-Nonalactone; 4-hydroxynonanoic acid, γ-lactone; aldehyde C-18.
Nonanal; pelargonic aldehyde.
1,3-Nonanediol acetate, mixed esters.
Nonanoic acid; pelargonic acid.
2-Nonanone; methylheptyl ketone.
3-Nonanon-1-yl acetate; 1-hydroxy-3-nonanone acetate.
Nonyl acetate.
Nonyl alcohol; 1-nonanol.
Nonyl octanoate.
Nonyl isovalerate.
γ-Octalactone; 4-hydroxyoctanoic acid, γ-lactone.
Octanal; caprylaldehyde.
Octanal dimethyl acetal.
Octanoic acid; caprylic acid.
1-Octanol; octyl alcohol.
2-Octanol.
2-Octanone; methyl hexyl ketone.
3-Octanone; ethyl amyl ketone.
3-Octanon-1-ol.
1-Octen-3-ol; amyl vinyl carbinol.
Octyl acetate.
Octyl butyrate.
Octyl formate.
Octyl heptanoate.
Octyl isobutyrate.
Octyl isovalerate.
Octyl octanoate.
Octyl phenylacetate.
Octyl propionate.
ω-Pentadecalactone; 15-hydroxypentadecanoic acid, ω-lactone; pentadecanolide; angelica lactone.
2,3-Pentanedione; acetyl propionyl.
2-Pentanone; methyl propyl ketone.
4-Pentenoic acid.
α-Phellandrene; *p*-mentha-1,5-diene.
Phenethyl acetate.
Phenethyl alcohol; β-phenylethyl alcohol.
Phenethyl anthranilate.
Phenethyl benzoate.
Phenethyl butyrate.
Phenethyl cinnamate.
Phenethyl formate.
Phenethyl isobutyrate.
Phenethyl isovalerate.
Phenethyl phenylacetate.
Phenethyl propionate.
Phenethyl salicylate.
Phenethyl senecioate; phenethyl 3,3-dimethylacrylate.
Phenethyl tiglate.
Phenoxyacetic acid.
2-Phenoxyethyl isobutyrate.
Phenylacetaldehyde; α-toluic aldehyde.
Phenylacetaldehyde 2,3-butylene glycol acetal.
Phenylacetaldehyde dimethyl acetal.
Phenylacetaldehyde glyceryl acetal.
Phenylacetic acid; α-toluic acid.
4-Phenyl-2-butanol; phenylethyl methyl carbinol.
4-Phenyl-3-buten-2-ol; methyl styryl carbinol.
4-Phenyl-3-buten-2-one.
4-Phenyl-2-butyl acetate; phenylethyl methyl carbinyl acetate.
1-Phenyl-3-methyl-3-pentanol; phenylethyl methyl ethyl carbinol.
1-Phenyl-1-propanol; phenylethyl carbinol.
3-Phenyl-1-propanol; hydrocinnamyl alcohol.
2-Phenylpropionaldehyde; hydratropaldehyde.
3-Phenylpropionaldehyde; hydrocinnamaldehyde.
2-Phenylpropionaldehyde dimethyl acetal; hydratropic aldehyde dimethyl acetal.
3-Phenylpropionic acid; hydrocinnamic acid.
3-Phenylpropyl acetate.
2-Phenylpropyl butyrate.
3-Phenylpropyl cinnamate.
3-Phenylpropyl formate.
3-Phenylpropyl hexanoate.
2-Phenylpropyl isobutyrate.
3-Phenylpropyl isobutyrate.
3-Phenylpropyl isovalerate.
3-Phenylpropyl propionate.
2-(3-Phenylpropyl)-tetrahydrofuran.
α-Pinene; 2-pinene.
β-Pinene; 2(10)-pinene.
Pine tar oil.
Piperidine.
Piperine.
d-Piperitone; *p*-menth-1-en-3-one.
Piperonyl acetate; heliotropyl acetate.
Piperonyl isobutyrate.
Polylimonene.
Polysorbate 20; polyoxyethylene (20) sorbitan monolaurate.
Polysorbate 60; polyoxyethylene (20) sorbitan monostearate.
Polysorbate 80.
Potassium acetate.
Propenylguaethol; 6-ethoxy-*m*-anol.
Propionaldehyde.
Propyl acetate.
Propyl alcohol; 1-propanol.
p-Propyl anisole; dihydroanethole.
Propyl benzoate.
Propyl butyrate.
Propyl cinnamate.
Propyl disulfide.
Propyl formate.
Propyl 2-furanacrylate.
Propyl heptanoate.
Propyl hexanoate.
Propyl *p*-hydroxybenzoate; propylparaben.
Propyl isobutyrate.
Propyl isovalerate.

Propyl mercaptan.
α-Propylphenethyl alcohol.
Propyl phenylacetate.
Propyl propionate.
Pulegone; *p*-menth-4(8)-en-3-one.
Pyridine.
Pyroligneous acid extract.
Pyruvaldehyde.
Pyruvic acid.
Rhodinol; 3,7-dimethyl-7-octen-1-ol; *l*-citronellol.
Rhodinyl acetate.
Rhodinyl butyrate.
Rhodinyl formate.
Rhodinyl isobutyrate.
Rhodinyl isovalerate.
Rhodinyl phenylacetate.
Rhodinyl propionate.
Rum ether; ethyl oxyhydrate.
Salicylaldehyde.
Santalol, α and β.
Santalyl acetate.
Santalyl phenylacetate.
Skatole.
Sucrose octaacetate.
α-Terpineol; *p*-menth-1-en-8-ol.
Terpinolene; *p*-menth-1,4(8)-diene.
Terpinyl acetate.
Terpinyl anthranilate.
Terpinyl butyrate.
Terpinyl cinnamate.
Terpinyl formate.
Terpinyl isobutyrate.
Terpinyl isovalerate.
Terpinyl propionate.
Tetrahydrofurfuryl acetate.
Tetrahydrofurfuryl alcohol.
Tetrahydrofurfuryl butyrate.
Tetrahydrofurfuryl propionate.
Tetrahydro-pseudo-ionone; 6,10-dimethyl-9-undecen-2-one.
Tetrahydrolinalool; 3,7-dimethyloctan-3-ol.
2-Thienyl mercaptan; 2-thienylthiol.
Thymol.
Tolualdehyde glyceryl acetal, mixed *o*, *m*, *p*.
Tolualdehydes, mixed *o*, *m*, *p*.
p-Tolylacetaldehyde.
o-Tolyl acetate; *o*-cresyl acetate.
p-Tolyl acetate; *p*-cresyl acetate.
4-(*p*-Tolyl)-2-butanone; *p*-methylbenzylacetone.
p-Tolyl isobutyrate.
p-Tolyl laurate.
p-Tolyl phenylacetate.
2-(*p*-Tolyl)-propionaldehyde; *p*-methylhydratropic aldehyde.
Tributyl acetylcitrate.
2-Tridecenal.
2,3-Undecadione; acetyl nonyryl.
γ-Undecalactone; 4-hydroxyundecanoic acid γ-lactone; peach aldehyde; aldehyde C-14.
Undecenal.
2-Undecanone; methyl nonyl ketone.
9-Undecenal; undecenoic aldehyde.
10-Undecenal.
10-Undecen-1-yl acetate.
Undecyl alcohol.
Valeraldehyde; pentanal.
Valeric acid; pentanoic acid.
Vanillin acetate; acetyl vanillin.
Veratraldehyde.
Zingerone; 4-(4-hydroxy-3-methoxyphenyl)-2-butanone.

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(d), 72 Stat. 1787; 21 U.S.C. 348(d))

Dated: October 19, 1964.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 64-10928; Filed, Oct. 26, 1964; 8:49 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6764]

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

Earnings and Profits of Controlled Foreign Corporations

On March 20, 1964, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to section 964(a) of the Internal Revenue Code of 1954, as added by section 12(a) of the Revenue Act of 1962 (76 Stat. 1006), relating to earnings and profits of controlled foreign corporations, was published in the FEDERAL REGISTER (29 F.R. 3577). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, such regulations are amended by inserting immediately after § 1.963-7 the following new sections:

§ 1.964 Statutory provisions; miscellaneous provisions.

Sec. 964. *Miscellaneous provisions*—(a) *Earnings and profits.* For purposes of this subpart, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year shall be determined according to rules substantially similar to those applicable to domestic corporations, under regulations prescribed by the Secretary or his delegate.

* * * * *

[Sec. 964(a) as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006)]

§ 1.964-1 Determination of the earnings and profits of a foreign corporation.

(a) *In general.* For purposes of sections 951 through 964, the earnings and profits (or deficit in earnings and profits) of a foreign corporation for its taxable year shall, except as provided in paragraph (f) of this section, be computed substantially as if such corporation were a domestic corporation by—

(1) Preparing a profit and loss statement with respect to such year from the books of account regularly maintained by the corporation for the purpose of accounting to its shareholders;

(2) Making the adjustments necessary to conform such statement to the accounting principles described in paragraph (b) of this section;

(3) Making the further adjustments necessary to conform such statement to the tax accounting standards described in paragraph (c) of this section;

(4) Translating the amounts shown on such adjusted statement into United States dollars in accordance with paragraph (d) of this section; and

(5) Adjusting the amount of profit or loss shown on such translated and adjusted statement in accordance with paragraph (e) of this section to reflect any exchange gain or loss determined thereunder.

The computation described in the preceding sentence may be made by following the procedures described in subparagraphs (1) through (5) of this paragraph in an order other than the one listed, as long as the result so obtained would be the same. No adjustment shall be required under subparagraph (2) or (3) of this paragraph unless it is material. Whether an adjustment is material depends on the facts and circumstances of the particular case, including the amount of the adjustment, its size relative to the general level of the corporation's total assets and annual profit or loss, the consistency with which the practice has been applied, and whether the item to which the adjustment relates is of a recurring or merely a nonrecurring nature. For the treatment of earnings and profits whose distribution is prevented by restrictions and limitations imposed by a foreign government, see section 964(b) and the regulations thereunder.

(b) *Accounting adjustments*—(1) *In general.* The accounting principles to be applied in making the adjustments required by paragraph (a)(2) of this section shall be those accounting principles generally accepted in the United States for purposes of reflecting in the financial statements of a domestic corporation the operations of its foreign affiliates, including the following:

(i) *Clear reflection of income.* Any accounting practice designed for purposes other than the clear reflection on a current basis of income and expense for the taxable year shall not be given effect. For example, an adjustment will be required where an allocation is made to an arbitrary reserve out of current income.

(ii) *Physical assets, depreciation, etc.* All physical assets (as defined in paragraph (e)(5)(ii) of this section), including inventory when reflected at cost, shall be taken into account at historical cost computed either for individual assets or groups of similar assets. The historical cost of such an asset shall not reflect any appreciation or depreciation in its value or in the relative value of the currency in which its cost was incurred. Depreciation, depletion, and amortization allowances shall be based on the historical cost of the underlying asset and no effect shall be given to any such allowance determined on the basis of a factor other than historical cost. For special rules for determining

historical cost where assets are acquired during a taxable year beginning before January 1, 1950, or a majority interest in the foreign corporation is acquired during a taxable year beginning after December 31, 1949, but before January 1, 1963, see subparagraph (2) of this paragraph.

(iii) *Valuation of assets and liabilities.* Any accounting practice which results in the systematic undervaluation of assets or overvaluation of liabilities shall not be given effect, even though expressly permitted or required under foreign law, except to the extent allowable under paragraph (c) of this section. For example, an adjustment will be required where inventory is written down below market value. For the definition of market value, see paragraph (a) of § 1.471–4.

(iv) *Income equalization.* Income and expense shall be taken into account without regard to equalization over more than one accounting period; and any equalization reserve or similar provision affecting income or expense shall not be given effect, even though expressly permitted or required under foreign law, except to the extent allowable under paragraph (c) of this section.

(v) *Foreign currency.* If transactions effected in a foreign currency other than that in which the books of the corporation are kept are translated into the foreign currency reflected in the books, such translation shall be made in a manner substantially similar to that prescribed by paragraph (d) of this section for the translation of foreign currency amounts into United States dollars.

(2) *Historical cost.* For purposes of this section, the historical cost of an asset acquired by the foreign corporation during a taxable year beginning before January 1, 1963, shall be determined, if it is so elected by or on behalf of such corporation—

(i) In the event that the foreign corporation became a majority owned subsidiary of a United States person (within the meaning of section 7701(a)(30)) during a taxable year beginning after December 31, 1949, but before January 1, 1963, and the asset was held by such foreign corporation at that time, as though the asset was purchased on the date the foreign corporation first became a majority owned subsidiary at a price equal to its then fair market value, or

(ii) In the event that subdivision (i) of this subparagraph is inapplicable but the asset was acquired by the foreign corporation during a taxable year beginning before January 1, 1950, as though the asset were purchased on the first day of the first taxable year of the foreign corporation beginning after December 31, 1949, at a price equal to the undepreciated cost of that asset as of that date as shown on the books of account of such corporation regularly maintained for the purpose of accounting to its shareholders.

For purposes of this subparagraph, a foreign corporation shall be considered a majority owned subsidiary of a United States person if, taking into account only stock acquired by purchase (as defined in section 334(b)(3)), the United States person owns (within the meaning of section 958(a)) more than 50 percent of the total combined voting power of all classes of stock of the foreign corporation entitled to vote. The election under this subparagraph shall be made for the first taxable year beginning after December 31, 1962, in which the foreign corporation is a controlled foreign corporation (within the meaning of section 957) or for which it is included in a chain or group under section 963(c)(2)(B) or (3)(B) or has a deficit in earnings and profits sought to be taken into account under section 952(d). Once made, such an election shall be irrevocable. For the time and manner in which an election may be made on behalf of a foreign corporation, see paragraph (c)(3) of this section.

(3) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Corporation M is a controlled foreign corporation which regularly maintains books of account for the purpose of accounting to its shareholders in accordance with the accounting practices prevalent in country X, the country in which it operates. As a consequence of those practices, the profit and loss statement prepared from these books of account reflects an allocation to an arbitrary reserve out of current income and depreciation allowances based on replacement values which are greater than historical cost. Adjustments are necessary to conform such statement to accounting principles generally accepted in the United States. Assuming these adjustments to be material, the unacceptable practices will have to be eliminated from the statement, an increase in the amount of profit (or a decrease in the amount of loss) thereby resulting.

Example (2). Corporation N is a foreign corporation which is not a controlled foreign corporation but which is included in a chain, for minimum distribution purposes, under section 963(c)(2)(B). Corporation N regularly maintains books of account for the purpose of accounting to its shareholders in accordance with the accounting practices of country Y, the country in which it operates. As a consequence of those practices, the profit and loss statement prepared from these books of account reflects the inclusion in income of stock dividends and of corporate distributions representing a return of capital. Adjustments are necessary to conform such statement to accounting principles generally accepted in the United States. Assuming these adjustments to be material, the unacceptable practices will have to be eliminated from the statement, a decrease in the amount of profit (or increase in the amount of loss) thereby resulting.

(c) *Tax adjustments*—(1) *In general.* The tax accounting standards to be applied in making the adjustments required by paragraph (a)(3) of this section shall be the following:

(i) *Accounting methods.* The method of accounting shall reflect the provisions of section 446 and the regulations thereunder.

(ii) *Inventories.* Inventories shall be taken into account in accordance with the provisions of sections 471 and 472 and the regulations thereunder.

(iii) *Depreciation.* Depreciation shall be computed in accordance with section 167 and the regulations thereunder.

(iv) *Elections.* Effect shall be given to any election made in accordance with an applicable provision of the Code and the regulations thereunder and these regulations.

Except as provided in subparagraphs (2) and (3) of this paragraph, any requirements imposed by the Code or applicable regulations with respect to making an election or adopting or changing a method of accounting must be satisfied by or on behalf of the foreign corporation just as though it were a domestic corporation if such election or such adoption or change of method is to be taken into account in the computation of its earnings and profits.

(2) *Adoption of method.* For the first taxable year beginning after December 31, 1962, in which the foreign corporation is a controlled foreign corporation (within the meaning of section 957) or for which it is included in a chain or group under section 963(c)(2)(B) or (3)(B) or has a deficit in earnings and profits sought to be taken into account under section 952(d), there may be adopted or made by such corporation or on its behalf any method of accounting or election allowable under this section notwithstanding that, in previous years, its earnings and profits were computed, or its books or financial statements prepared, on a different basis and notwithstanding that such election is required by the Code or regulations to be made in a prior taxable year. For purposes of determining the amount of a deficit in earnings and profits taken into account pursuant to section 952(c)(1)(B), if a different basis is used in previous years, ratable adjustments shall be made in the earnings and profits attributable to such previous years to prevent any duplication or omission of amounts that would otherwise result from the adoption of such method or the making of such election. See subparagraph (3) of this paragraph for the manner in which a method of accounting or an election may be adopted or made on behalf of the foreign corporation.

(3) *Action on behalf of corporation*—(i) *In general.* An election shall be deemed made, or an adoption or change in method of accounting deemed effectuated, on behalf of the foreign corporation only if its controlling United States shareholders (as defined in subparagraph (5) of this paragraph)—

(*a*) Satisfy for such corporation any requirements imposed by the Code or applicable regulations with respect to such election or such adoption or change in method, such as the filing of forms, the execution of consents, securing the permission of the Commissioner, or maintaining books and records in a particular manner,

(*b*) File the written statement described in subdivision (ii) of this subparagraph at the time and in the manner prescribed therein, and

(*c*) Provide the written notice required by subdivision (iii) of this subparagraph at the time and in the manner prescribed therein.

For purposes of the preceding sentence, the books of the foreign corporation shall be considered to be maintained in a particular manner if the controlling United States shareholders or the for-

eign corporation regularly keep the records and accounts required by section 964(c) and the regulations thereunder in that manner. Any election required to be made or information required to be filed with a tax return shall be deemed made of furnished on behalf of the foreign corporation if its controlling United States shareholders file the written statement described in subdivision (ii) of this subparagraph with respect to such election within the period specified therein. For a special rule postponing the time for taking action by or on behalf of a foreign corporation until the amount of its earnings and profits becomes significant, see subparagraph (6) of this paragraph.

(ii) *Written statement.* The written statement required by subdivision (i) of this subparagraph shall be jointly executed by the controlling United States shareholders, shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C., 20225, within 180 days after the close of the taxable year of the foreign corporation with respect to which the election is made or the adoption or change of method effected, or before May 1, 1965, whichever is later, and shall set forth the name and country of organization of the foreign corporation, the names, addresses, and stock interests of the controlling United States shareholders, the nature of the action taken, the names and addresses of all other United States shareholders notified of the election or adoption or change of method, and such other information as the Commissioner may by forms require.

(iii) *Notice.* Prior to the filing of the written statement described in subdivision (ii) of this subparagraph, the controlling United States shareholders shall provide written notice of the election made or the adoption or change of method effected to all other persons known by them to be United States shareholders who own (within the meaning of section 958(a)) stock of the foreign corporation. Such notice shall set forth the name and country of organization of the foreign corporation, the names, addresses, and stock interests of the controlling United States shareholders, the nature of the action taken, and such other information as the Commissioner may by forms require. However, the failure of the controlling United States shareholders to provide such notice to a person required to be notified thereunder shall not invalidate the election made or the adoption or change of method effected, if it is established to the satisfaction of the Commissioner that reasonable cause existed for such failure.

(4) *Effect of action by controlling United States shareholders.* Any action taken by the controlling United States shareholders on behalf of the foreign corporation pursuant to subparagraph (3) of this paragraph shall be reflected in the computation of the earnings and profits of such corporation under this section to the extent that it bears upon the tax liability of a United States shareholder who either—

(i) Was a controlling United States shareholder with respect to the action taken;

(ii) Received the written notice provided by subparagraph (3)(iii) of this paragraph;

(iii) Failed to file any of the returns required by section 6046 and the regulations thereunder within the period prescribed by section 6046(d); or

(iv) Was notified by the Director of International Operations of the action taken—

(*a*) Within 240 days after the close of the taxable year (of the foreign corporation) to which such action first relates, or

(*b*) Within 180 days after the close of the first taxable year in which such shareholder becomes a United States shareholder, or

(*c*) Before July 1, 1965, whichever is latest.

To the extent that the computation of the earnings and profits of the foreign corporation bears upon the tax liability of any United States shareholder other than those enumerated in the preceding sentence, the computation shall reflect the action taken only if such shareholder assents to such treatment. Such assent may be given at any time, but not later than 90 days after the shareholder is first apprised of such action by the Director of International Operations. The shareholder shall signify his assent by filing a written statement with the Director of International Operations, Internal Revenue Service, Washington, D.C., 20225, setting forth the name and country of organization of the foreign corporation, his own name, address, and stock interest in the corporation, the nature of the action being assented to, and such other information as the Commissioner may by forms require.

(5) *Controlling United States shareholders.* For purposes of this paragraph the controlling United States shareholders of a foreign corporation shall be those United States shareholders (as defined in section 951(b)), who, in the aggregate, own (within the meaning of section 958(a)) more than 50 percent of the total combined voting power of all classes of the stock of such corporation entitled to vote and who undertake to act on its behalf. In the event that the foreign corporation is not a controlled foreign corporation but is included in a chain or group under section 963(c)(2)(B) or (3)(B), the controlling United States shareholder with respect to such foreign corporation shall be deemed to be the domestic corporation which elects to receive the minimum distribution from such chain or group. In the event that the foreign corporation is neither a controlled foreign corporation nor included in a chain or group under section 963(c)(2)(B) or (3)(B) but has a deficit in earnings and profits sought to be taken into account under section 952(d), the controlling United States shareholder with respect to such foreign corporation shall be the shareholder seeking to take such deficit into account. In the event that the foreign corporation is a controlled foreign corporation but the United States shareholders (as defined in section 951(b)) do not, in the aggregate, own (within the meaning of section 958(a)) more than 50 percent of the total combined voting power of all classes of the stock of such corporation entitled to vote, the controlling United States shareholders of the foreign corporation shall be all those those United States shareholders who own (within the meaning of section 958(a)) stock of such corporation.

(6) *Action not required until significant.* Notwithstanding any other provision of this paragraph, action by or on behalf of a foreign corporation (other than a foreign corporation subject to tax under section 882) to make an election or to adopt a method of accounting shall not be required until 180 days after the close of the first taxable year for which—

(i) An amount is includible in gross income with respect to such corporation under section 951(a);

(ii) It is sought to be established that such corporation is a less developed country corporation (within the meaning of section 955(c));

(iii) An amount is excluded from subpart F income (within the meaning of section 952) by section 952(c), section 952(d), or section 970(a); or

(iv) Such corporation is the subject of an election to secure an exclusion under section 963.

In the event that action by or on behalf of the foreign corporation is not undertaken by the time specified in the preceding sentence and such failure is shown to the satisfaction of the Commissioner to be due to inadvertence or a reasonable cause, such action may be undertaken during any period of at least 30 days occurring after such showing is made which the Commissioner may specify as appropriate for this purpose. Where the action necessary to make an election or to adopt a method of accounting is undertaken by or on behalf of the foreign corporation in accordance with this subparagraph, such election shall be deemed to have been made, or such adoption of accounting method effected, for the first taxable year of the foreign corporation beginning after December 31, 1962, in which such corporation is a controlled foreign corporation (within the meaning of section 957) or for which it is included in a chain or group under section 963(c)(2)(B) or (3)(B) or has a deficit in earnings and profits sought to be taken into account under section 952(d). For special rules for computing earnings and profits for purposes of section 1248 or income for purposes of applying an exclusion set forth in section 954(b) where the taxable year of the foreign corporation occurs prior to the making of elections or the adoption of methods of accounting under this subparagraph, see the regulations under section 952 and section 1248.

(7) *Revocation of election.* Notwithstanding any other provision of this section, any election made by or on behalf of a foreign corporation (other than a foreign corporation subject to tax under section 882) may be modified or revoked by or on behalf of such corporation for the taxable year for which made whenever the consent of the Commissioner is secured for such modification or revocation, even though such election would be irrevocable but for this subparagraph.

(8) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). X Corporation is a controlled foreign corporation which maintains its books, in accordance with the laws of the country in which it operates, by taking inventoriable items into account under the "first-in, first-out" method. A, B, and C, the United States shareholders of X Corporation, own 45 percent, 30 percent, and 25 percent of its voting stock, respectively. For the first taxable year of X Corporation beginning after December 31, 1962, B and C adopt on its behalf the "last-in, first-out" inventory method, notifying A of the action taken. Even though A may object to such action, adjustments must be made to reflect the use of the LIFO method of inventorying in the computation of the earnings and profits of X Corporation with respect to him as well as with respect to B and C.

Example (2). Y Corporation is a controlled foreign corporation which maintains its books, in accordance with the laws of the country in which it operates, by employing the straight-line method of depreciation. D and E, the United States shareholders of Y Corporation, own 51 percent and 10 percent of its voting stock, respectively. For the first taxable year of Y Corporation beginning after December 31, 1962, D adopts on its behalf the declining balance method of depreciation. However, not knowing that E is a United States shareholder of the company, D fails to provide him with notice of the action taken. Assuming that E has filed the return required by section 6046 and the regulations thereunder within the period prescribed by section 6046(d), adjustments in the computation of earnings and profits will not be required with respect to him unless the Director of International Operations notifies him of the action taken within 240 days after the close of Y's taxable year. If notice is not provided to E within this period, he will not be compelled to make the adjustments. At his option, however, he may accept the action taken by assenting thereto not later than 90 days after he is first apprised of such action by the Director of International Operations.

(d) *Translation into United States dollars*—(1) *In general*—(i) *General rule.* Except as provided in subdivisions (ii), (iii), and (iv) of this subparagraph, the amounts to be shown on the profit and loss statement, adjusted pursuant to paragraphs (b) and (c) of this section, shall be translated into United States dollars (as required by paragraph (a)(4) of this section) at the appropriate exchange rate for the translation period (as defined in subparagraph (6) of this paragraph) to which they relate.

(ii) *Cost of goods sold.* Amounts representing items of inventory reflected in the cost of goods sold shall be translated—

(*a*) To the extent that such amounts represent items included in the opening inventory balance, so as to obtain the same amount of United States dollars which represented (after translation and adjustment) such items in the closing inventory balance for the preceding taxable year,

(*b*) To the extent that such amounts represent items purchased or otherwise first included in inventory during the taxable year, at the appropriate exchange rate for the translation period in which the historical cost of such items was incurred, and

(*c*) To the extent that such amounts represent items included in the closing inventory balance, at the appropriate exchange rate for the translation period in which the historical cost of such items was incurred, except that, if such amounts are written down to market value, such market value shall be determined at the year-end rate. Notwithstanding the preceding sentence, amounts representing items of inventory included in the closing inventory balance may be translated at the year-end rate even though not written down to market value; however, once such a rate is employed under those circumstances, translation may not be made for subsequent taxable years at the appropriate exchange rate for the translation period in which the historical cost of the items of inventory was incurred unless the permission of the Commissioner is secured.

(iii) *Depreciation, depletion, and amortization.* Amounts representing allowances for depreciation, depletion, or amortization shall be translated at the appropriate exchange rate for the translation period in which the historical cost of the underlying asset was incurred or is deemed to have been incurred. For purposes of this subdivision, if the historical cost of an asset is determined under paragraph (b)(2) of this section, such cost shall be deemed to have been incurred on the date the asset is considered to have been purchased under that paragraph.

(iv) *Prepaid expenses or income.* Amounts representing expenses or income paid or received in a prior taxable year shall be translated at the appropriate exchange rate for the translation period during which they were paid or received. Notwithstanding the preceding sentence, amounts representing such prepaid income or expenses may be translated at the year end rate; however, once such a rate is employed, translation may not be made for subsequent taxable years at the appropriate exchange rate for the translation period during which such income or expenses were paid or received unless the permission of the Commissioner is secured.

(2) *Appropriate exchange rate*—(i) *In general.* Where the value of the foreign currency relative to the United States dollar does not fluctuate substantially during a translation period, a single exchange rate shall be appropriate for all amounts representing classes of items which relate to such period, such rate to be a simple average determined by dividing the sum of the closing rates for each of the calendar months ending with or within such period by the number of such months. On the other hand, where the value of the foreign currency relative to the United States dollar does fluctuate substantially during a translation period, the exchange rate appropriate to an amount representing a class of items which relates to such period shall be either (*a*) a simple average determined in accordance with the preceding sentence, or (*b*) a weighted average taking into account the volume of transactions (reflected by the amount being translated) for the calendar months ending with or within such period, depending upon which average would produce a result more representative of that which would have been obtained by translating the individual transactions reflected by that amount at the closing rate for the month to which each such transaction relates. Whether the value of the foreign currency relative to the United States dollar fluctuates substantially during the translation period is a question of fact, depending upon, among other things, the extent to which the volume of transactions varies from month to month. In general, however, the degree of fluctuation will be considered substantial if the closing rate for any calendar month ending with or within the translation period varies by more than 10 percent from the closing rate for any preceding calendar month ending within that period.

(ii) *Monthly rate.* Notwithstanding subdivision (i) of this subparagraph, if it is so elected by or on behalf of the foreign corporation, and if the closing rate for any calendar month ending with or within a translation period does not vary by more than 3 percent from the closing rate for any preceding calendar month ending within that period, the appropriate exchange rate for amounts representing all classes of items relating to such period shall be any exchange rate which is designated in the election and which does not vary by more than 3 percent from the closing rate for any calendar month ending with or within such period. An election under this subdivision may be made with respect to any translation period of any taxable year of the foreign corporation beginning after December 31, 1962. Such election shall be effective only with respect to the translation period for which it is made, and once made shall be irrevocable with respect to that period. See paragraph (c)(3) of this section for the time and manner in which an election may be made on behalf of the foreign corporation.

(iii) *Class of items.* For purposes of this subparagraph, the term "class of items" means any category which is reflected separately on books of account or financial statements. For example, sales is a class of items which is reflected separately on the profit and loss statement, and accounts receivable is a class of items which is reflected separately on the balance sheet.

(3) *Closing rate.* The closing rate for any calendar month shall be the exchange rate on the last day of that month determined by reference to a qualified source of exchange rates within the meaning of subparagraph (5) of this paragraph.

(4) *Year-end rate.* The year-end rate shall be the closing rate for the last calendar month of the taxable year.

(5) *Qualified source of exchange rates.* A qualified source of exchange rates shall be any source which is demonstrated to the satisfaction of the district director to reflect actual transactions conducted in a free market and involving representative amounts. In the absence of such a demonstration, the exchange rates taken into account in the computation of the earnings and profits

of the foreign corporation shall be determined by reference to the free market rate set forth in the pertinent monthly issue of "International Financial Statistics" or a successor publication of the International Monetary Fund, or such other source of exchange rates reflecting actual transactions conducted in a free market and involving representative amounts as the Commissioner may designate as appropriate for this purpose.

(6) *Translation period*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, the translation period shall be a taxable year.

(ii) *Currency fluctuations.* If it is so elected by or on behalf of the foreign corporation, the taxable year shall be divided into groups consisting of a calendar month or consecutive calendar months as specified in the election, each such group constituting a separate translation period. Where the value of the foreign currency relative to the United States dollar fluctuates substantially during the taxable year, the use of the weighted average referred to in subparagraph (2)(i) of this paragraph ordinarily may be avoided by dividing the taxable year into translation periods so that the first translation period begins with the first day of such year and each subsequent translation period begins with the first day of the first calendar month thereafter ending with or within such year for which the closing rate varies by more than 10 percent from the closing rate for any month in the preceding translation period. An election under this subdivision may be made with respect to any taxable year of the foreign corporation beginning after December 31, 1962. Such election shall be effective only with respect to the taxable year for which it is made, and once made shall be irrevocable with respect to such year. For the time and manner in which an election may be made on behalf of the foreign corporation, see paragraph (c)(3) of this section.

(7) *Actual transactions.* Notwithstanding any other provisions of this paragraph—

(i) *Dollar transactions.* Any transaction involving the payment or receipt of United States dollars shall be reflected in the profit and loss statement by the amount of United States dollars involved in such transaction.

(ii) *Conversion transactions.* Any transaction involving the conversion of a foreign currency into United States dollars, or the conversion of United States dollars into a foreign currency, shall be reflected in the profit and loss statement by an amount expressed in United States dollars and determined by translation at the exchange rate at which conversion was effected if the foreign corporation knows, or reasonably should know, that exchange rate.

(iii) *Daily rate.* Any transaction other than one described in subdivision (i) or (ii) may be translated into United States dollars at the exchange rate for the day on which that transaction occurred, such rate to be determined by reference to a qualified source of exchange rates within the meaning of subparagraph (5) of this paragraph.

No transaction shall be required to be taken into account under subdivision (i) or (ii) unless the United States dollars involved are material in amount.

(8) *Other methods.* Notwithstanding the other provisions of this paragraph, translation into United States dollars may be made in accordance with a system or method not otherwise described in this paragraph, provided that such system or method (i) was employed by the corporation for purposes of accounting to its shareholders prior to January 1, 1963, and (ii) is shown to the satisfaction of the Commissioner to clearly reflect the earnings and profits of the corporation.

(9) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). M Corporation, a controlled foreign corporation organized on January 1, 1963, employs the calendar year as its taxable year and maintains its books of account in abbas, the currency of the country in which it operates. During 1963 M Corporation's monthly sales amounted to 100,000 abbas per month, its total payroll and other expenses for the year amounted to 180,000 abbas, and its total inventory purchases amounted to 1,050,000 abbas. Also during 1963, M Corporation purchased depreciable assets for 1,000,000 abbas. The value of the abba relative to the United States dollar fluctuated only slightly in 1963; the monthly closing rate moved between 19.8 abbas and 20.2 abbas per United States dollar and stood at 19.9 abbas per United States dollar for most of the year and at yearend. An election under subparagraph (2)(ii) of this paragraph is made on behalf of M Corporation to use the par rate of 20 abbas per United States dollar as the exchange rate appropriate for 1963. Assuming that none of the amounts shown therein reflects a transaction described in subparagraph (7) of this paragraph, M Corporation's adjusted profit and loss statement for 1963 would be translated into United States dollars as follows:

	Local currency	Exchange rate	U.S. dollars
Sales	1,200,000	20:1	60,000
Cost of goods sold:			
Purchases	1,050,000	20:1	52,500
Less: Closing inventory	(350,000)	20:1	(17,500)
	700,000		35,000
Wages and other expenses	180,000	20:1	9,000
Depreciation	200,000	20:1	10,000
Total costs and expenses	1,080,000		54,000
Operating profit	120,000		6,000

Example (2). The facts are the same as in example (1) and in addition during 1964 M Corporation had annual sales of 1,470,000 abbas, annual wages and other expenses of 252,000 abbas, and inventory purchases of 910,000 abbas. Also during 1964, M Corporation purchased additional depreciable assets for 430,000 abbas, the bulk of such purchases being made in the last half of the year. The value of the abba relative to the United States dollar gradually declined in 1964, the monthly closing rate moving from 19.9 abbas per United States dollar down to 22 abbas per United States dollar. For most classes of items, the appropriate exchange rate is a simple average of monthly closing rates or 21 abbas per United States dollar. However, since the bulk of the depreciable asset purchases were made in the last half of the year, the rate representative of those transactions is a weighted average of 21.5 abbas per United States dollar. Assuming that none of the amounts shown therein reflects a transaction described in subparagraph (7) of this paragraph and that closing inventory is translated at historical rates, M Corporation's adjusted profit and loss statement for 1964 would be translated into United States dollars as follows:

	Local currency	Exchange rate	U.S. dollars
Sales	1,470,000	21:1	70,000
Cost of goods sold:			
Opening inventory	350,000	20:1	17,500
Purchases	910,000	21:1	43,333
Less: Closing inventory	(418,000)	21:1	(19,905)
	842,000		40,928
Wages and other expenses	252,000	21:1	12,000
Depreciation:			
(1963 assets)	150,000	20:1	7,500
(1964 assets)	86,000	21.5:1	4,000
Total costs and expenses	1,330,000		64,428
Operating profit	140,000		5,572

Example (3). The facts are the same as in examples (1) and (2) except that the 1964 sales of M Corporation amounted to 1,260,000 abbas plus $10,500 in United States dollars. Assuming that closing inventory is translated at historical rates, M Corporation's adjusted profit and loss statement for 1964 would be translated as follows:

	Local currency	Exchange rate	U.S. dollars
Sales—Abbas	1,260,000	21:1	60,000
Sales—U.S. dollars	215,250	(1)	10,500
Total sales	1,475,250		70,500
Cost of goods sold:			
Opening inventory	350,000	20:1	17,500
Purchases	910,000	21:1	43,333
Less: Closing inventory	(418,000)	21:1	19,905
	842,000		40,928
Wages and other expenses	252,000	21:1	12,000
Depreciation:			
1963 assets	150,000	20:1	7,500
1964 assets	86,000	21.5:1	4,000
Total costs and expenses	1,330,000		64,428
Operating profit	145,250		6,072

[1] Transaction.

Example (4). The facts are the same as in examples (1) and (2). M Corporation continues to operate during 1965 and the value of the abba relative to the United States dollar declines materially during that year; the monthly closing rate drops from 22 abbas per United States dollar to 26 abbas per United States dollar, a decrease of more than 10 percent. An election under subparagraph (6)(ii) of this paragraph is made on behalf of M Corporation to divide the year into translation periods, the applicable periods being January 1 through July 31 and August 1 through December 31. For most classes of items, the appropriate exchange rate for each of these translation periods is a simple average of monthly closing rates, or 23 abbas and 25 abbas per United States dollar, respectively. However, all of the depreciable asset purchases were made at the end of the first translation period—January 1 through July 31—and, therefore, the rate representative of those transactions is a weighted average of 24 abbas per United States dollar. The classes of items reflecting M Corporation's 1965 financial transactions and the representative rates of exchange for such classes of items are as follows:

	Local currency	Exchange rate
Sales:		
Jan. 1-July 31	1,000,000	23:1
Aug. 1-Dec. 31	500,000	25:1
Inventory Purchases:		
Jan. 1-July 31	559,000	23:1
Aug. 1-Dec. 31	361,000	25:1
Expenses:		
Jan. 1-July 31	115,000	23:1
Aug. 1-Dec. 31	145,000	25:1
Fixed asset purchases	216,000	24:1
Closing inventory	430,000	[1]

[1] Historical.

Assuming that M Corporation uses the first-in, first-out method of inventory valuation, the closing inventory is assumed in normal circumstances to consist of purchases made during the most recent translation period as follows:

	Local currency	Exchange rate	U.S. dollars
All of the August-December purchases	361,000	25:1	14,440
Balance from January-July purchases	69,000	23:1	3,000
Total closing inventory	430,000	----------	17,440

Assuming that none of the amounts shown therein reflects a transaction described in subparagraph (7) of this paragraph, and that closing inventory is translated at historical rates, M Corporation's adjusted profit and loss statement for 1965 would be translated into United States dollars as follows:

	Local currency	Exchange rate	U.S. dollars
Sales:			
Jan. 1-July 31	1,000,000	23:1	43,478
Aug. 1-Dec. 31	500,000	25:1	20,000
	1,500,000	----------	63,478
Cost of goods sold:			
Opening inventory purchases	418,000	21:1	19,905
Jan. 1-July 31	559,000	23:1	24,304
Aug. 1-Dec. 31	361,000	25:1	14,440
Less: Closing inventory	(430,000)	[1]	(17,440)
	908,000	----------	41,209
Wages and other expenses:			
Jan. 1-July 31	115,000	23:1	5,000
Aug. 1-Dec. 31	145,000	25:1	5,800
Depreciation:			
1963 assets	120,000	20:1	6,000
1964 assets	64,500	21.5:1	3,000
1965 assets	43,200	24:1	1,800
Total costs and expenses	1,395,700	----------	62,809
Operating profit	104,300	----------	669

[1] Historical.

(e) *Exchange gain or loss*—(1) *In general.* The exchange gain or loss determined in accordance with subparagraph (2) of this paragraph shall be applied against and reduce, or applied to and increase, as the case may be, the amount of profit or loss shown on the profit and loss statement prepared pursuant to paragraph (a)(1) of this section, as adjusted and translated pursuant to paragraph (a) (2), (3), and (4) of this section. For the manner in which the exchange gain or loss is to be allocated to or applied against subpart F income, see section 952 and the regulations thereunder.

(2) *Determination of exchange gain or loss.* The exchange gain (or loss) for the taxable year shall be the amount which equals—

(i) The retained earnings for the taxable year as determined under subparagraph (3) of this paragraph, plus

(ii) The amount of any distributions made during the taxable year translated at the exchange rate appropriate to the translation period during which such distributions were made (or taken into account in accordance with paragraph (d)(7) of this section, if applicable), minus

(iii) The amount representing retained earnings for the preceding taxable year as determined under subparagraph (3) of this paragraph, minus

(iv) The amount of profit (or plus the amount of any loss) shown on the profit and loss statement for the taxable year prepared pursuant to paragraph (a)(1) of this section and adjusted and translated pursuant to paragraph (a) (2), (3), and (4) of this section.

(3) *Retained earnings.* The retained earnings for any taxable year shall be determined by first—

(i) Preparing a balance sheet as of the end of such year from the books of account regularly maintained by the foreign corporation for the purpose of accounting to its shareholders;

(ii) Making the adjustments necessary to conform such balance sheet to the accounting principles described in paragraph (b) of this section;

(iii) Making the further adjustments necessary to conform such balance sheet to the tax accounting standards described in paragraph (c) of this section; and

(iv) Translating the amounts shown on the balance sheet (other than amounts representing retained earnings) into United States dollars in accordance with subparagraph (4) of this paragraph.

The retained earnings shall be an amount equal to the excess of the aggregate amount representing assets on the balance sheet (as adjusted and translated under this subparagraph) over the aggregate amount representing liabilities, reserves (other than reserves out of current or accumulated earnings), and paid-in capital on the balance sheet (as adjusted and translated under this subparagraph).

(4) *Translation of balance sheet.* Amounts shown on the balance sheet as adjusted pursuant to subparagraph (3) (ii) and (iii) of this paragraph (other than amounts representing retained earnings) shall be translated into United States dollars as follows:

(i) *Financial assets.* Amounts representing financial assets shall be translated at the year-end rate.

(ii) *Physical assets.* Amounts representing physical assets (other than inventory) shall be translanted at the appropriate exchange rate for the translation period in which the historical cost of the asset was incurred or is deemed to have been incurred. For special rules for determining date on which the historical cost of certain assets acquired during taxable years beginning before January 1, 1950, or owned at the time a majority interest in the corporation was acquired during a taxable year beginning after December 31, 1949, or before January 1, 1963, is deemed to have been incurred, see paragraph (b)(3) of this section.

(iii) *Depreciation and similar reserves.* Amounts representing depreciation, depletion, and amortization reserves shall be translated at the appropriate exchange rate for the translation period in which the historical cost of the underlying asset was incurred or is deemed to have been incurred.

(iv) *Inventory.* Amounts representing items of inventory included in the closing inventory balance shall be translated in accordance with paragraph (d)(1)(ii) of this section.

(v) *Bad debt reserves.* Amounts representing bad debts reserves shall be translated at the year-end rate.

(vi) *Prepaid income or expense.* Amounts representing expenses or income paid or received in a prior taxable year shall be translated in accordance with paragraph (d)(1)(iv) of this section.

(vii) *Short-term liabilities.* Amounts representing short-term liabilities shall be translated at the year-end rate.

(viii) *Long-term liabilities.* Amounts representing long-term liabilities shall be translated at the appropriate exchange rate for the translation period in which such liabilities were incurred.

(ix) *Paid-in capital.* Amounts representing paid-in capital shall be translated at the appropriate exchange rate for the translation period in which such capital was paid in.

Notwithstanding any other provisions of this subparagraph, where the amount representing an item shown on the balance sheet reflects a transaction described in paragraph (d)(7) of this section, such transaction shall be taken into account in accordance with that paragraph.

(5) *Definitions.* For purposes of this paragraph—

(i) *Financial assets.* A financial asset shall be any asset reflecting a fixed amount of foreign currency, such as cash on hand, bank deposits, and loans and accounts receivable. Securities (within the meaning of section 1236(c)) shall be considered physical assets if they have been or are reasonably expected to be held for at least six months; if not they shall be considered financial assets whether or not they reflect a fixed amount of foreign currency. Moreover, advances on open account to any corporation in which the foreign corporation and any related persons (within the meaning of section 954(d)(3) and the regulations thereunder) with respect thereto own at least 10 percent of the combined voting power of all classes of stock entitled to vote shall not be considered financial assets if such advances have remained open for more than one year.

(ii) *Physical assets.* A physical asset shall be any asset other than a financial asset and shall include goodwill, patents, and other intangibles.

(iii) *Short-term liabilities.* A short-term liability shall be any indebtedness of the foreign corporation which is due or overdue as of the date of the balance

sheet or which will become due within 1 year thereafter.

(iv) *Long-term liabilities.* A long-term liability is any indebtedness of the foreign corporation other than a short-term liability.

For the definition of "appropriate exchange rate", "year-end rate", and "translation period", see paragraph (d)(2), (4) and (6), respectively, of this section.

(6) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). N Corporation is a controlled foreign corporation which uses the calendar year as its taxable year and which maintains its books in yuccas, the currency of the country in which it operates. For 1963, its operating profit is 140,000 yuccas or $55,720. At the end of the year, its balance sheet, as translated and adjusted pursuant to subparagraph (3) of this paragraph, is as follows:

	Local currency	Exchange rate	U.S. dollars
Cash	77,000	2.20:1	35,000
Accounts receivable	209,000	2.20:1	95,000
Inventory	418,000	(1)	199,050
Fixed assets	1,430,000	(1)	700,000
Less: Accumulated depreciation	(436,000)	(1)	(215,000)
Total assets	1,698,000		814,050
Current liabilities	338,000	2.20:1	153,640
Long-term liabilities	300,000	(1)	150,000
Paid-in capital	800,000	(1)	400,000
Retained earnings	260,000		110,410
Total liabilities and net worth	1,698,000		814,050

[1] Historical.

N Corporation's retained earnings for 1962 are determined on the basis of its balance sheet as of the end of that year, translated as follows:

	Local currency	Exchange rate	U.S. dollars
Cash	70,000	2.00:1	35,000
Accounts receivable	180,000	2.00:1	90,000
Inventory	350,000	(1)	175,000
Fixed assets	1,000,000	(1)	500,000
Less: Accumulated depreciation	(200,000)	(1)	(100,000)
Total assets	1,400,000		700,000
Current liabilities	180,000	2.00:1	90,000
Long-term liabilities	300,000	(1)	150,000
Paid-in capital	800,000	(1)	400,000
Retained earnings	120,000		60,000
Total liabilities and net worth	1,400,000		700,000

The exchange gain or loss of N Corporation for 1963 may be computed as follows:

Retained earnings—1963			110,410
Less: Retained earnings—1962	60,000		
Operating profit—1963	55,720		115,720
Exchange loss			(5,310)

[1] Historical.

Example (2). Assume the same facts as in example (1). For 1964, N Corporation's operating profit is 104,300 yuccas or $15,740. It pays a dividend of 26,000 yuccas during a translation period when the appropriate exchange rate is 2.60 yuccas per United States dollar. At yearend, its balance sheet, as translated and adjusted pursuant to subparagraph (3) of this paragraph, is as follows:

	Local currency	Exchange rate	U.S. dollars
Cash	91,000	2.60:1	35,000
Accounts receivable	260,000	2.60:1	100,000
Inventory	430,000	(1)	174,400
Fixed assets	1,646,000	(1)	790,000
Less: Accumulated depreciation	(663,700)	(1)	(323,000)
Total assets	1,763,300		776,400
Current liabilities	325,000	2.60:1	125,000
Long-term liabilities	300,000	(1)	150,000
Paid-in capital	800,000	(1)	400,000
Retained earnings	338,300		101,400
Total liabilities and net worth	1,763,300		776,400

The exchange gain or loss of N Corporation for 1964 would be computed as follows:

Retained earnings—1964			101,400
Add: Dividends—1964			10,000
Predistribution earnings			111,400
Less: Retained earnings—1963	110,410		
Operating profit—1964	15,740		126,150
Exchange loss			(14,750)

[1] Historical.

(f) *Determination of earnings and profits as if a domestic corporation.* If the books of account regularly maintained by a foreign corporation for the purpose of accounting to its shareholders are kept in United States dollars and in accordance with accounting principles generally accepted in the United States, and if it is so elected by or on behalf of such corporation, the earnings and profits of the foreign corporation for a taxable year shall be determined in every respect as if it were a domestic corporation. Such election shall be effective only for the taxable year with respect to which the election is made. Once made, such election shall be irrevocable. See paragraph (d)(3) of this section for the time and manner in which an election may be made on behalf of a foreign corporation.

(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: October 20, 1964.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 64-10852; Filed, Oct. 26, 1964; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER C—AIDS TO NAVIGATION

[CGFR 64-66]

PART 67— PRIVATE AIDS TO NAVIGATION, OUTER CONTINENTAL SHELF AND WATERS UNDER THE JURISDICTION OF THE UNITED STATES

Sounding of Multiple Fog Signals on Single Structure

Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER of January 30, 1964 (29 F.R. 1572-1586), and the Merchant Marine Council Public Hearing Agenda, dated March 23, 1964 (CG-249), the Merchant Marine Council held a public hearing on March 23, 1964, for the purpose of receiving comments, views, and data. The proposals considered were identified as Items I to XVI, inclusive. Item Xb contained the proposal to cancel 33 CFR 67.10-1(d), which requires the sounding in unison of multiple fog signals installed on a single structure (CG-249, Xb, page 147). As announced in the news release and confirmed in the preamble of the document CGFR 64-19, published in the FEDERAL REGISTER of June 5, 1964 (29 F.R. 7344), additional time of 120 days was allowed for the submission of further written comments. No comment was received objecting to this proposed cancellation nor suggesting an alternative. Therefore, the Merchant Marine Council has recommended adoption of this proposal which is hereby approved, and the requirements in 33 CFR 67.10-1(d) are cancelled as set forth in this document.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by sections 83, 85, 92, 632 and 633 of Title 14, U.S. Code, section 1333 of Title 43, U.S. Code, and Treasury Department Orders 167-3, dated May 6, 1953 (18 F.R. 2962), 167-15, dated January 3, 1955 (20 F.R. 840), 167-17, dated June 29, 1955 (20 F.R. 4976), and 167-23, dated July 27, 1956 (21 F.R. 5852), effective on date of publication in the FEDERAL REGISTER, § 67.10-1 *Type and characteristics* is amended by cancelling paragraph (d).

(Sec. 92, 63 Stat. 503, sec. 4, 67 Stat. 462; 14 U.S.C. 92, 43 U.S.C. 1333)

Dated: October 19, 1964.

[SEAL] E. J. ROLAND,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 64-10906; Filed, Oct. 26, 1964; 8:47 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER E—LOAD LINES

[CGFR 64–60]

PART 43—FOREIGN OR COASTWISE VOYAGE

Basic Minimum Freeboards for Certain United States Vessels

Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER of August 12, 1964 (29 F.R. 11534, 11535), and the letter notice soliciting written comments to be submitted prior to September 11, 1964 (CMC 5991/2; August 12, 1964), one comment recommending changes in 46 CFR 43.15–98(b) (1) and (2) was received from the American Bureau of Shipping, as well as a request that these proposals be made effective as of September 14, 1964, rather than the proposed date of January 1, 1965. These proposals are considered to be advantageous to United States shipping. Since no adverse comments were received and the changes recommended by the American Bureau of Shipping in no way affect the meaning of the proposals but do improve the clarity thereof, the proposals, as revised, are adopted and set forth in this document, and the effective date advanced to September 14, 1964.

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by section 632 of Title 14, U.S. Code, sections 85a and 88a of Title 46, U.S. Code, and Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), and 167–48, dated October 19, 1962 (27 F.R. 10504), the following amendments are prescribed and shall be in effect on and after September 14, 1964:

Subpart 43.05—General Rules for Determining Maximum Load Lines of Merchant Vessels

1. Section 43.05–15(d) is amended by inserting a reference to § 43.15–98(a) in the first sentence so that this paragraph reads as follows:

§ 43.05–15 Lines used with disk.

* * * * *

(d) Domestic vessels eligible for operation at the freeboards indicated by §§ 43.15–87(b), 43.15–90(b), 43.15–98(a), or 43.30–1(b) shall have the related winter, summer, tropical, fresh, and tropical fresh water marks located abaft the disk and surmounted by the letter "C". (See Figure 43.05–15(d).) While a complete set of additional marks is shown by this Figure, vessels also marked forward of the disk in accordance with § 43.05–5(a) need show abaft the disk only those additional marks which are necessary. Vessels departing on foreign voyages shall only bear the load line marks forward of the disk marked in accordance with § 43.05–5(a).

Subpart 43.15—Load Lines for Steamers

2. Subpart 43.15 is amended by inserting after § 43.15–97 a new § 43.15–98 reading as follows:

§ 43.15–98 Reduced freeboards for steamers having superior design and operational features, and engaged on United States coastwise and/or intercoastal voyages.

(a) Subject to compliance with the additional conditions in paragraph (b) of this section but otherwise in accordance with the usual conditions of assignment, the freeboards of steamers over 370 feet in length, engaged in U.S. coastwise and/or intercoastal voyages, may be computed from the lesser tabular values given by the Table 43.15–98(a) in lieu of those given by Table 43.15–97(a).

TABLE 43.15–98(a)—REDUCED BASIC MINIMUM SUMMER FREEBOARDS FOR STEAMERS ON UNITED STATES COASTWISE AND/OR INTERCOASTAL VOYAGES

L (feet)	Freeboard inches	L (feet)	Freeboard inches
370	62.4	700	137.1
380	64.8	710	138.8
390	67.2	720	140.5
400	69.6	730	142.2
410	72.0	740	143.8
420	74.5	750	145.4
430	77.1	760	146.9
440	79.7	770	148.4
450	82.3	780	149.9
460	84.9	790	151.4
470	87.5	800	152.8
480	90.0	810	154.2
490	92.5	820	155.6
500	95.0	830	157.0
510	97.5	840	158.3
520	99.9	850	159.6
530	102.3	860	160.9
540	104.7	870	162.2
550	107.0	880	163.5
560	109.3	890	164.8
570	111.5	900	166.1
580	113.7	910	167.3
590	115.9	920	168.5
600	118.0	930	169.7
610	120.1	940	170.9
620	122.1	950	172.1
630	124.1	960	173.3
640	126.1	970	174.4
650	128.1	980	175.5
660	130.0	990	176.6
670	131.8	1000	177.6
680	133.6	[1]	[1]
690	135.4		

[1] Vessels above 1,000 feet are to be dealt with by the administration.

(b) In order to be eligible for the reduced freeboards permitted by this section, vessels shall comply with the following supplementary conditions:

(1) Weather deck hatch covers shall be of steel construction, sealed watertight, without need for tarpaulins, as provided by § 43.10–5(b). Associated hatch coamings shall be at least of standard height, as provided by § 43.10–10.

(2) Vessels shall be fitted with forecastles having an efficient bulkhead with effective Class 1 or Class 2 closing appliances. Forecastles of standard height or greater shall extend for at least 0.07L. If a forecastle is of less than standard height, but not less than 5.5 feet in height, the product of its length and height, in feet squared, shall be at least equal to 0.50L+50 times the deficiency in height in feet. Forecastles may not be less than 5.5 feet in height for credit under this subparagraph.

(3) Alternatively, vessels not having creditable forecastles but having sufficient excess sheer forward, are eligible for these reduced freeboards. For this purpose the sheer in inches at $\frac{1}{6}$L from the forward perpendicular shall be at least 0.089L+8.9+$\frac{1}{6}$ times the difference between the tabular freeboard obtained from Table 43.15–97(a) and that obtained from Table 43.15–98(a). Similarly, the sheer at the forward perpendicular shall be at least 0.2L+20 plus the difference between the tabular freeboards obtained from Tables 43.15–97(a) and 43.15–98(a).

(4) Vessels shall be subdivided and shall be operated with sufficient stability to maintain a one compartment standard of watertight subdivision and damage stability at drafts up to and including the resulting load draft. For determining compliance with this requirement, the specific standards laid down in Parts 73 and 74 of Subchapter H—Passenger Vessels of this chapter, as they apply to a required factor of subdivision of 1.0, shall be used, with the exception however, that the cargo space permeabilities specified by §§ 73.10–5(c) and 74.10–15(c) of this chapter shall be suitably increased when the vessel is particularly engaged in the carriage of cargoes which result in a higher value. The related plans, calculations and data, including the stability instructions called for by Subpart 74.20, shall be submitted to the Commandant (MMT), who will then advise the American Bureau of Shipping, or other authorized assigning authority, as to the final acceptability of the subdivision at the proposed draft.

(5) Vessels shall be structurally suitable for the resulting load draft.

Subpart 43.40—Zones and Seasonal Areas and Miscellaneous Requirements

3. The references with Form C4 are amended by inserting a reference to § 43.15–98 in the "Coastwise Load Line Certificate" in § 43.40–10 so that is reads as follows:

§ 43.40–10 Forms of load line certificates.

* * * * *

COASTWISE LOAD LINE CERTIFICATE

[Form C4; applicable to vessels assigned freeboards on the basis of 46 CFR 43.15–87, 43.15–90, 43.15–98 and/or 43.30–75]

* * * * *

(Sec. 2, 45 Stat. 1493, as amended, sec. 2, 49 Stat. 888, as amended; 46 U.S.C. 85a, 88a. Treasury Dept. Orders 120, July 31, 1950, 15 F.R. 6521; 167–48, Oct. 19, 1962, 27 F.R. 10504)

Dated: October 16, 1964.

[SEAL] E. J. ROLAND,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 64–10907; Filed, Oct. 26, 1964; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3461]

[Utah 0115810]

UTAH

Withdrawal for China Meadows Dam and Reservoir

By virtue of the authority contained in the Act of June 17, 1902 (32 Stat. 338; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

Subject to valid existing rights, the following-described lands in the Wasatch National Forest are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (Chap. 2, Title 30 U.S.C.), but not from leasing under the mineral leasing laws, and reserved for the China Meadows Dam and Reservoir of the Lyman Project:

SALT LAKE MERIDIAN

T. 2 N., R. 14 E.,
Secs. 6 and 7.

Containing approximately 1,280 acres.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

OCTOBER 20, 1964.

[F.R. Doc. 64-10894; Filed, Oct. 26, 1964; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 15397 (RM-514); FCC 64-963]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Services; Table of Assignments in Grandview, W. Va.

Report and order. 1. The Commission has before it for consideration the notice of proposed rule making, adopted March 25, 1964 (FCC 64-259) looking toward the assignment of Channel 9— to Grandview, West Virginia, and its reservation for non-commercial educational use.

2. The Notice was adopted pursuant to a petition filed by the Board of Governors of West Virginia University. No comments were filed in opposition to the proposal. Numerous comments in support of the proposal were filed by business, educational and community leaders in the area to be served by the proposed facility. All cited the educational needs of this 11 county area, and in addition pointed out that the mountainous terrain made the assignment of a VHF facility particularly desirable.

3. The West Virginia Educational Broadcasting Authority submitted copies of its state-wide plan for an educational television system in which the proposed Channel 9 facility at Grandview plays a key role.

4. In the third paragraph in the Commission's notice, it was noted that petitioner had offered no statement as to the availability of a building plot, and it was suggested that a comment in this connection would be helpful. Petitioner submitted a letter from the Director of the West Virginia State Department of Natural Resources on this subject. The showing as to the availability of a site meeting all spacing and signal intensity requirements is sufficient to warrant making the assignment as requested.

5. In view of the above the Commission is of the opinion that the public interest would be served by the assignment of Channel 9— to Grandview, West Virginia, and its reservation for non-commercial educational use.

6. Authority for the amendment adopted herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934 as amended.

7. In view of the foregoing: *It is ordered*, That effective December 1, 1964, the Table of Assignments contained in § 73.606 of the rules and regulations is amended to add the following entry under the State of West Virginia.

City:	*Channel*
Grandview, W. Va	*9—

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 303, 307, 48 Stat. 1082, 1083; 47 U.S.C. 303, 307)

Adopted: October 21, 1964.

Released: October 22, 1964.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-10914; Filed, Oct. 26, 1964; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 31]

INCOME AND EMPLOYMENT TAXES

Allowance and Denial of Deduction for Certain State, Local, and Foreign Taxes

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T Washington, D.C., 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] BERTRAND M. HARDING,
Acting Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) and the Employment Tax Regulations (26 CFR Part 31) to the amendments made to the Internal Revenue Code of 1954 by section 207 of the Revenue Act of 1964 (78 Stat. 40), such regulations are amended as follows:

PARAGRAPH 1. Section 1.164 is amended by revising subsections (a), (b), (c), (f), and (g) of section 164, and by revising the historical note. These amended and revised provisions read as follows:

§ 1.164 Statutory provisions; taxes.

Sec. 164. *Taxes*—(a) *General rule.* Except as otherwise provided in this section, the following taxes shall be allowed as a deduction for the taxable year within which paid or accrued:

(1) State and local, and foreign, real property taxes.

(2) State and local personal property taxes.

(3) State and local, and foreign, income, war profits, and excess profits taxes.

(4) State and local general sales taxes.

(5) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels.

In addition, there shall be allowed as a deduction State and local, and foreign, taxes not described in the preceding sentence which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in section 212 (relating to expenses for production of income).

(b) *Definitions and special rules.* For purposes of this section—

(1) *Personal property taxes.* The term "personal property tax" means an ad valorem tax which is imposed on an annual basis in respect of personal property.

(2) *General sales taxes*—(A) *In general.* The term "general sales tax" means a tax imposed at one rate in respect of the sale at retail of a broad range of classes of items.

(B) *Special rules for food, etc.* In the case of items of food, clothing, medical supplies, and motor vehicles—

(i) The fact that the tax does not apply in respect of some or all of such items shall not be taken into account in determining whether the tax applies in respect of a broad range of classes of items, and

(ii) The fact that the rate of tax applicable in respect of some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

(C) *Items taxed at different rates.* Except in the case of a lower rate of tax applicable in respect of an item described in subparagraph (B), no deduction shall be allowed under this section for any general sales tax imposed in respect of an item at a rate other than the general rate of tax.

(D) *Compensating use taxes.* A compensating use tax in respect of an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term "compensating use tax" means, in respect of any item, a tax which—

(i) Is imposed on the use, storage, or consumption of such item, and

(ii) Is complementary to a general sales tax, but only if a deduction is allowable under subsection (a)(4) in respect of items sold at retail in the taxing jurisdiction which are similar to such item.

(3) *State or local taxes.* A State or local tax includes only a tax imposed by a State, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.

(4) *Foreign taxes.* A foreign tax includes only a tax imposed by the authority of a foreign country.

(5) *Separately stated general sales taxes and gasoline taxes.* If the amount of any general sales tax or of any tax on the sale of gasoline, diesel fuel, or other motor fuel is separately stated, then, to the extent that the amount so stated is paid by the consumer (otherwise than in connection with the consumer's trade or business) to his seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

(c) *Deduction denied in case of certain taxes.* No deduction shall be allowed for the following taxes:

(1) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed; but this paragraph shall not prevent the deduction of so much of such taxes as is properly allocable to maintenance or interest charges.

(2) Taxes on real property, to the extent that subsection (d) requires such taxes to be treated as imposed on another taxpayer.

* * * * *

(f) *Payments for municipal services in atomic energy communities.* For purposes of this section, amounts paid or accrued, to compensate the Atomic Energy Commission for municipal-type services, by any owner of real property within any community (within the meaning of section 21b of the Atomic Energy Community Act of 1955) shall be treated as State real property taxes paid or accrued. For purposes of this subsection, the term "owner" includes a person who holds the real property under a leasehold of 40 or more years and a person who has entered into a contract to purchase under section 61 of the Atomic Energy Community Act of 1955. Subsection (d) of this section shall not apply to a sale by the United States of property with respect to which this subsection applies.

(g) *Cross references.* (1) For provisions disallowing any deduction for the payment of the tax imposed by subchapter B of chapter 3 (relating to tax-free covenant bonds), see section 1451.

(2) For provisions disallowing any deduction for certain taxes, see section 275.

[Sec. 164 as amended by sec. 6, Technical Amendments Act 1958 (72 Stat. 1608); sec. 207, Rev. Act 1964 (78 Stat. 40)]

PAR. 2. Section 1.164–1 is amended to read as follows:

§ 1.164–1 Deduction for taxes.

(a) *In general.* Only the following taxes shall be allowed as a deduction under this section for the taxable year within which paid or accrued, according to the method of accounting used in computing taxable income:

(1) State and local, and foreign, real property taxes.

(2) State and local personal property taxes.

(3) State and local, and foreign, income, war profits, and excess profits taxes.

(4) State and local general sales taxes.

(5) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels. In addition, there shall be allowed as a deduction under this section State and local, and foreign, taxes not described in subparagraphs (1) through (5) of this paragraph which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in section 212 (relating to expenses for production of income). For example, dealers or investors in securities and dealers or investors in real estate may deduct State stock transfer and real estate transfer taxes, respectively, under section 164, to the extent they are expenses incurred in carrying on a trade or business or an activity for the production of income. In general, taxes are deductible only by the person upon whom they are imposed. However, see § 1.164–5 in the case of certain taxes paid by the consumer.

(b) *Taxable years beginning before January 1, 1964.* For taxable years beginning before January 1, 1964, except as otherwise provided in §§1.164–2 through 1.164–8, inclusive, taxes imposed by the United States, any State, territory, possession of the United States, or a political subdivision of any of the foregoing, or by any foreign country, are deductible

from gross income for the taxable year in which paid or accrued, according to the method of accounting used in computing taxable income. For this purpose, postage is not a tax and automobile license or registration fees are ordinarily taxes.

(c) *Cross references.* For the definition of the term "real property taxes", see paragraph (b) of § 1.164–3. For the definition of the term "foreign taxes", see paragraph (d) of § 1.164–4. For the definition of the term "general sales taxes", see paragraph (f) of § 1.164–3. For the treatment of gasoline, diesel fuel, and other motor fuel taxes, see § 1.164–5. For apportionment of taxes on real property between seller and purchaser, see section 164(d) and § 1.164–6. For the general rule for taxable year of deduction, see section 461. For provisions disallowing any deduction for the tax paid at the source on interest from tax-free covenant bonds, see section 1451(f).

PAR. 3. Section 1.164–2 is amended to read as follows:

§ 1.164–2 Deduction denied in case of certain taxes.

This section and § 1.275 describe certain taxes for which no deduction is allowed. In the case of taxable years beginning before January 1, 1964, the denial is provided for by section 164(b) (prior to being amended by section 207 of the Revenue Act of 1964 (78 Stat. 40)). In the case of taxable years beginning after December 31, 1963, the denial is governed by sections 164 and 275. No deduction is allowed for the following taxes:

(a) *Federal income taxes.* Federal income taxes, including the taxes imposed by section 3101, relating to the tax on employees under the Federal Insurance Contributions Act (chapter 21 of the Code); sections 3201 and 3211, relating to the taxes on railroad employees and railroad employee representatives; section 3402, relating to the tax withheld at source on wages; and by corresponding provisions of prior internal revenue laws.

(b) *Federal war profits and excess profits taxes.* Federal war profits and excess profits taxes including those imposed by Title II of the Revenue Act of 1917 (39 Stat. 1000), Title III of the Revenue Act of 1918 (40 Stat. 1088), Title III of the Revenue Act of 1921 (42 Stat. 271), section 216 of the National Industrial Recovery Act (48 Stat. 208), section 702 of the Revenue Act of 1934 (48 Stat. 770), subchapter D, chapter 1 of the Internal Revenue Code of 1939, and subchapter E, chapter 2 of the Internal Revenue Code of 1939.

(c) *Estate and gift taxes.* Estate, inheritance, legacy, succession, and gift taxes.

(d) *Foreign income, war profits, and excess profits taxes.* Income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States, if the taxpayer chooses to take to any extent the benefits of section 901, relating to the credit for taxes of foreign countries and possessions of the United States.

(e) *Real property taxes.* Taxes on real property, to the extent that section 164(d) and § 1.164–6 require such taxes to be treated as imposed on another taxpayer.

(f) *Federal duties and excise taxes.* Federal import or tariff duties, business, license, privilege, excise, and stamp taxes (not described in paragraphs (a), (b), or (c) of this section, or § 1.164–4) paid or accrued within the taxable year. The fact that any such tax is not deductible as a tax under section 164 does not prevent (1) its deduction under section 162 or section 212, provided it represents an ordinary and necessary expense paid or incurred during the taxable year by a corporation or an individual in the conduct of any trade or business or, in the case of an individual for the production or collection of income, for the management, conservation, or maintenance of property held for the production of income, or in connection with the determination, collection, or refund of any tax, or (2) its being taken into account during the taxable year by a corporation or an individual as a part of the cost of acquiring or producing property in the trade or business or, in the case of an individual, as a part of the cost of property held for the production of income with respect to which it relates.

(g) *Taxes for local benefits.* Except as provided in § 1.164–4, taxes assessed against local benefits of a kind tending to increase the value of the property assessed.

PAR. 4. Section 1.164–3 is amended to read as follows:

§ 1.164–3 Definitions and special rules.

For purposes of section 164 and § 1.164–1 to § 1.164–8, inclusive—

(a) *State or local taxes.* A State or local tax includes only a tax imposed by a State, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.

(b) *Real property taxes.* The term "real property taxes" means taxes imposed on interests in real property and levied for the general public welfare, but it does not include taxes assessed against local benefits. See § 1.164–4.

(c) *Personal property taxes.* The term "personal property tax" means an ad valorem tax which is imposed on an annual basis in respect of personal property. To qualify as a personal property tax, a tax must meet the following three tests:

(1) The tax must be ad valorem—that is, substantially in proportion to the value of the personal property. A tax which is based on criteria other than value does not qualify as ad valorem. For example, a motor vehicle tax based on weight, model year, and horsepower, or any of these characteristics is not an ad valorem tax. However, a tax which is partly based on value and partly based on other criteria may qualify in part. For example, in the case of a motor vehicle tax of 1 percent of value plus 40 cents per hundredweight, the part of the tax equal to 1 percent of value qualifies as an ad valorem tax and the balance does not qualify.

(2) The tax must be imposed on an annual basis, even if collected more frequently or less frequently.

(3) The tax must be imposed in respect of personal property. A tax may be considered to be imposed in respect of personal property even if in form it is imposed on the exercise of a privilege. Thus, for taxable years beginning after December 31, 1963, State and local taxes on the registration or licensing of highway motor vehicles are not deductible as personal property taxes unless and to the extent that the tests prescribed in this subparagraph are met. For example, an annual ad valorem tax qualifies as a personal property tax although it is denominated a registration fee imposed for the privilege of registering motor vehicles or of using them on the highways.

(d) *Foreign taxes.* The term "foreign tax" includes only a tax imposed by the authority of a foreign country. A tax imposed by a political subdivision of a foreign country is considered to be imposed by the authority of that foreign country.

(e) *Sales tax.* (1) The term "sales tax" means a tax imposed upon persons engaged in selling tangible personal property, or upon the consumers of such property, including persons selling gasoline or other motor vehicle fuels at wholesale or retail, which is a stated sum per unit of property sold or which is measured by the gross sales price or the gross receipts from the sale. The term also includes a tax imposed upon persons engaged in furnishing services which is measured by the gross receipts for furnishing such services.

(2) In general, the term "consumer" means the ultimate user or purchaser; it does not include a purchaser such as a retailer, who acquires the property for resale.

(f) *General sales tax.* A "general sales tax" is a sales tax which is imposed at one rate in respect of the sale at retail of a broad range of classes of items. No foreign sales tax is deductible under section 164(a) and paragraph (a)(4) of § 1.164–1. To qualify as a general sales tax, a tax must meet the following two tests:

(1) The tax must be a tax in respect of sales at retail. This may include a tax imposed on persons engaged in selling property at retail or furnishing services at retail, for example, if the tax is measured by gross sales price or by gross receipts from sales or services. Rentals qualify as sales at retail if so treated under applicable State sales tax laws.

(2) The tax must be general—that is, it must be imposed at one rate in respect of the retail sales of a broad range of classes of items. A sales tax is considered to be general although imposed on sales of various classes of items at more than one rate provided that one rate applies to the retail sales of a broad range of classes of items. The term "items" includes both commodities and services.

(g) *Special rules relating to general sales taxes.* (1) A sales tax which is general is usually imposed at one rate in respect of the retail sales of all tangible personal property (with exceptions and additions). However, a sales tax which is selective—that is, a tax which applies at one rate with respect to retail sales

of specified classes of items also qualifies as general if the specified classes represent a broad range of classes of items. A selective sales tax which does not apply at one rate to the retail sales of a broad range of classes of items is not general. For example, a tax which applies only to sales of alcoholic beverages, tobacco, admissions, luxury items, and a few other items is not general. Similarly, a tax imposed solely on services is not general. However, a selective sales tax may be deemed to be part of the general sales tax and hence may be deductible, even if imposed by a separate Title, etc., of the State or local law, if imposed at the same rate as the general rate of tax (as defined in subparagraph (4) of this paragraph) which qualifies a tax in the taxing jurisdiction as a general sales tax. For example, if a State has a 5 percent general sales tax and a separate selective sales tax of 5 percent on transient accommodations, the tax on transient accommodations is deductible.

(2) A tax is imposed at one rate only if it is imposed at that rate on generally the same base for all items subject to tax. For example, a sales tax imposed at a 3 percent rate on 100 percent of the sales price of some classes of items and at a 3 percent rate on 50 percent of the sales price of other classes of items would not be imposed at one rate with respect to all such classes. However, a tax is considered to be imposed at one rate although it allows dollar exemptions, if the exemptions are designed to exclude all sales under a certain dollar amount. For example, a tax may be imposed at one rate although it applies to all sales of tangible personal property but applies only to sales amounting to more than 10 cents.

(3) The fact that a sales tax exempts food, clothing, medical supplies, and motor vehicles, or any of them, shall not be taken into account in determining whether the tax applies to a broad range of classes of items. The fact that a sales tax applies to food, clothing, medical supplies, and motor vehicles, or any of them, at a rate which is lower than the general rate of tax (as defined in subparagraph (4) of this paragraph) is not taken into account in determining whether the tax is imposed at one rate on the retail sales of a broad range of classes of items. For purposes of this section, the term "food" means food for human consumption off the premises where sold, and the term "medical supplies" includes drugs, medicines, and medical devices.

(4) Except in the case of a lower rate of tax applicable in respect of food, clothing, medical supplies, and motor vehicles, or any of them, no deduction is allowed for a general sales tax in respect of any item if the tax is imposed on such item at a rate other than the general rate of tax. The general rate of tax is the one rate which qualifies a tax in a taxing jurisdiction as a general sales tax because the tax is imposed at such one rate on a broad range of classes of items. There can be only one general rate of tax in any one taxing jurisdiction. However, a general sales tax imposed at a lower rate or rates on food, clothing, motor vehicles, and medical supplies, or any of them, may nonetheless be deductible with respect to such items. For example, a sales tax which is imposed at 1 percent with respect to food, imposed at 3 percent with respect to a broad range of classes of tangible personal property, and imposed at 4 percent with respect to transient accommodations would qualify as a general sales tax. Taxes paid at the 1 percent and the 3 percent rates are deductible, but tax paid at the 4 percent rate is not deductible. The fact that a sales tax provides for the adjustment of the general rate of tax to reflect the sales tax rate in another taxing jurisdiction shall not be taken into account in determining whether the tax is imposed at one rate on the retail sales of a broad range of classes of items. Moreover, a general sales tax imposed at a lower rate with respect to an item in order to reflect the tax rate in another jurisdiction is also deductible at such lower rate. For example, State E imposes a general sales tax whose general rate is 3 percent. The State E sales tax law provides that in areas bordering on States with general sales taxes, selective sales taxes, or special excise taxes, the rate applied in the adjoining State will be used if such rate is under 3 percent. State F imposes a 2 percent sales tax. The 2 percent sales tax paid by residents of State E in areas bordering on State F is deductible.

(h) *Compensating use taxes.* A compensating use tax in respect of any item is treated as a general sales tax. The term "compensating use tax" means, in respect of any item, a tax which is imposed on the use, storage, or consumption of such item and which is complementary to a general sales tax which is deductible with respect to sales of similar items.

(i) *Special rules relating to compensating use taxes.* (1) In general, a use tax on an item is complementary to a general sales tax on similar items if the use tax is imposed on an item which was not subject to such general sales tax but which would have been subject to such general sales tax if the sale of the item had taken place within the jurisdiction imposing the use tax. For example, a tax imposed by State A on the use of a motor vehicle purchased in State B is complementary to the general sales tax of State A on similar items, if the latter tax applies to motor vehicles sold in State A.

(2) Since a compensating use tax is treated as a general sales tax, it is subject to the rule of subparagraph (C) of section 164(b)(2) and paragraph (g)(4) of this section that no deduction is allowed for a general sales tax imposed in respect of an item at a rate other than the general rate of tax (except in the case of lower rates on the sale of food, clothing, medical supplies, and motor vehicles). The fact that a compensating use tax in respect of any item provides for an adjustment in the rate of the compensating use tax or the amount of such tax to be paid on account of a sales tax on such item imposed by another taxing jurisdiction is not taken into account in determining whether the compensating use tax is imposed in respect of the item at a rate other than the general rate of tax. For example, a compensating use tax imposed by State C on the use of an item purchased in State D is considered to be imposed at the general rate of tax even though the tax imposed by State C allows a credit for any sales tax paid on such item in State D, or the rate of such compensating use tax is adjusted to reflect the rate of sales tax imposed by State D.

PAR. 5. Section 1.164–4 is amended to read as follows:

§ 1.164–4 Taxes for local benefits.

(a) So-called taxes for local benefits referred to in paragraph (g) of § 1.164–2 more properly assessments, paid for local benefits such as street, sidewalks, and other like improvements, imposed because of and measured by some benefit inuring directly to the property against which the assessment is levied are not deductible as taxes. A tax is considered assessed against local benefits when the property subject to the tax is limited to property benefited. Special assessments are not deductible, even though an incidental benefit may inure to the public welfare. The real property taxes deductible are those levied for the general public welfare by the proper taxing authorities at a like rate against all property in the territory over which such authorities have jurisdiction. Assessments under the statutes of California relating to irrigation, and of Iowa relating to drainage, and under certain statutes of Tennessee relating to levees, are limited to property benefited, and if the assessments are so limited, the amounts paid thereunder are not deductible as taxes. For treatment of assessments for local benefits as adjustments to the basis of property, see section 1016(a)(1) and the regulations thereunder.

(b)(1) Insofar as assessments against local benefits are made for the purpose of maintenance or repair or for the purpose of meeting interest charges with respect to such benefits, they are deductible. In such cases, the burden is on the taxpayer to show the allocation of the amounts assessed to the different purposes. If the allocation cannot be made, none of the amount so paid is deductible.

(2) Taxes levied by a special taxing district which was in existence on December 31, 1963, for the purpose of retiring indebtedness existing on such date, are deductible, to the extent levied for such purpose, if (i) the district covers the whole of at least one county, (ii) if at least 1,000 persons are subject to the taxes levied by the district, and (iii) if the district levies its assessments annually at a uniform rate on the same assessed value of real property, including improvements, as is used for purposes of the real property tax generally.

PAR. 6. Section 1.164–5 is amended to read as follows:

§ 1.164–5 Certain retail sales taxes and gasoline taxes.

For taxable years beginning before January 1, 1964, any amount representing a State or local sales tax paid by a consumer of services or tangible personal property is deductible by such

consumer as a tax, provided it is separately stated and not paid in connection with his trade or business. For taxable years beginning after December 31, 1963, only the amount of any separately stated State and local general sales tax (as defined in paragraph (g) of § 1.164–3) and tax on the sale of gasoline, diesel fuel or other motor fuel paid by the consumer (other than in connection with his trade or business) is deductible by the consumer as tax. The fact that, under the law imposing it, the incidence of such State or local tax does not fall on the consumer is immaterial. The requirement that the amount of tax must be separately stated will be deemed complied with where it clearly appears that at the time of sale to the consumer, the tax was added to the sales price and collected or charged as a separate item. It is not necessary, for the purpose of this section, that the consumer be furnished with a sales slip, bill, invoice, or other statement on which the tax is separately stated. For example, where the law imposing the State or local tax for which the taxpayer seeks a deduction contains a prohibition against the seller absorbing the tax, or a provision requiring a posted notice stating that the tax will be added to the quoted price, or a requirement that the tax be separately shown in advertisements or separately stated on all bills and invoices, it is presumed that the amount of the State or local tax was separtely stated at the time paid by the consumer; except that such presumption shall have no application to a tax on the sale of gasoline, diesel fuel or other motor fuel imposed upon a wholesaler unless such provisions of law apply with respect to both the sale at wholesale and the sale at retail.

PAR. 7. Paragraphs (a) and (c) of § 1.164–8 are amended to read as follows:

§ 1.164–8 Payments for municipal services in atomic energy communities.

(a) *General.* For taxable years beginning after December 31, 1957, amounts paid or accrued by any owner of real property within any community (as defined in section 21b of the Atomic Energy Community Act of 1955 (42 U.S.C. 2304)) to compensate the Atomic Energy Commission for municipal-type services (or any agent or contractor authorized by the Atomic Energy Commission to charge for such services) shall be treated as State real property taxes paid or accrued for purposes of section 164. Such amounts shall be deductible as taxes to the extent provided in section 164, §§ 1.164–1 through 1.164–7, and this section. See paragraph (b) of this section for definition of the term "Atomic Energy Commission"; paragraph (c) of this section for the definition of the term "municipal-type services"; and paragraph (d) of this section for the definition of the term "owner".

* * * * *

(c) *Municipal-type services.* For purposes of paragraph (a) of this section, the term "municipal-type services" includes services usually rendered by a municipality and usually paid for by taxes. Examples of municipal-type services are police protection, fire protection, public recreational facilities, public libraries, public schools, public health, public welfare, and the maintenance of roads and streets. The term shall include sewage and refuse disposal which are maintained out of revenues derived from a general charge for municipal-type services; however, the term shall not include sewage and refuse disposal if a separate charge for such services is made. Charges assessed against local benefits of a kind tending to increase the value of the property assessed are not charges for municipal-type services. See section 164(c)(1) and § 1.164–4.

PAR. 8. There are inserted immediately after § 1.274–8 the following new sections:

§ 1.275 Statutory provisions; certain taxes.

Sec. 275. *Certain taxes*—(a) *General rule.* No deduction shall be allowed for the following taxes:

(1) Federal income taxes, including—

(A) The tax imposed by section 3101 (relating to the tax on employees under the Federal Insurance Contributions Act);

(B) The taxes imposed by sections 3201 and 3211 (relating to the taxes on railroad employees and railroad employee representatives); and

(C) The tax withheld at source on wages under section 3402, and corresponding provisions of prior revenue laws.

(2) Federal war profits and excess profits taxes.

(3) Estate, inheritance, legacy, succession, and gift taxes.

(4) Income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States, if the taxpayer chooses to take to any extent the benefits of section 901 (relating to the foreign tax credit).

(5) Taxes on real property to the extent that section 164(d) requires such taxes to be treated as imposed on another taxpayer.

(b) *Cross reference.* For disallowance of certain other taxes, see section 164(c).

[Sec. 275 as added by sec. 207(b)(3)(A), Rev. Act 1964 (78 Stat. 42)]

§ 1.275–1 Deduction denied in case of certain taxes.

For description of the taxes for which a deduction is denied under section 275, see paragraphs (a), (b), (c), (d), and (e) of § 1.164–2.

PAR. 9. Section 1.535 is amended by revising section 535(b)(1) and the historical note to read as follows:

§ 1.535 Statutory provisions; accumulated taxable income.

Sec. 535. *Accumulated taxable income.* * * *

(b) *Adjustments to taxable income.* * * *

(1) *Taxes.* There shall be allowed as a deduction Federal income and excess profits taxes (other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940) and income, war profits, and excess profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 275(a)(4)), accrued during the taxable year or deemed to be paid by a domestic corporation under section 902(a)(1) or 960(a)(1)(C) for the taxable year, but not including the accumulated earnings tax imposed by section 531, the personal holding company tax imposed by section 541, or the taxes imposed by corresponding sections of a prior income tax law.

* * * * *

[Sec. 535 as amended by sec. 31, Technical Amendments Act 1958 (72 Stat. 1631); sec. 205 Small Business Tax Revision Act 1958 (72 Stat. 1680); sec. 9(d)(2), Rev. Act 1962 (76 Stat. 1001); sec. 207, Rev. Act 1964 (78 Stat. 40)]

PAR. 10. Section 1.901 is amended by revising section 901(d)(1) and the historical note to read as follows:

§ 1.901 Statutory provisions; taxes of foreign countries and of possessions of United States.

Sec. 901. *Taxes of foreign countries and of possessions of United States.* * * *

(d) *Cross reference.* (1) For deductions of income, war profits, and excess profits taxes paid to a foreign country or a possession of the United States see sections 164 and 275.

* * * * *

[Sec. 901 as amended by sec. 3 (a) and (b), Act of Sept. 14, 1960 (Pub. Law 86–780, 74 Stat. 1013); secs. 9(d)(3) and 12(b)(1), Rev. Act 1962 (76 Stat. 1001, 1031); sec. 207, Rev. Act 1964 (78 Stat. 42)]

PAR. 11. Section 1.901–1 is amended by revising paragraphs (c) and (h) to read as follows:

§ 1.901–1 Allowance of credit for taxes.

* * * * *

(c) *Deduction denied if credit claimed.* If a taxpayer chooses with respect to any taxable year to claim a credit for taxes to any extent, such choice will be considered to apply to income, war profits, and excess profits taxes paid or accrued in such taxable year to all foreign countries and possessions of the United States, and no portion of any such taxes shall be allowed as a deduction from gross income in such taxable year or any succeeding taxable year. See section 275(a)(4).

* * * * *

(h) *Taxpayers denied credit in a particular taxable year.* * * *

(2) A taxpayer who elects to deduct taxes paid or accrued to any foreign country or possession of the United States (see sections 164 and 275);

* * * * *

PAR. 12. Section 1.903 is amended by revising section 903 and adding a historical note. These amended and revised provisions read as follows:

§ 1.903 Statutory provisions; credit for taxes in lieu of income, etc., taxes.

Sec. 903. *Credit for taxes in lieu of income etc., taxes.* For purposes of this subpart and of sections 164(a) and 275(a), the term "income, war profits, and excess profits taxes" shall include a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by any foreign country or by any possession of the United States.

[Sec. 903 as amended by sec. 207(b)(8), Rev. Act 1964 (78 Stat. 42)]

PAR. 13. Section 1.903–1 is amended by revising paragraph (a) to read as follows:

§ 1.903–1 Definition of taxes in lieu of income, war profits, or excess profits taxes.

(a) *In general.* For the purposes of subpart A (section 901 and following), part III, subchapter N, chapter 1 of the Code, and sections 164(a) and 275(a), the term "income, war profits, and excess profits taxes" includes a tax imposed by statute or decree by a foreign country or by a possession of the United States if—

(1) Such country or possession has in force a general income tax law,

(2) The taxpayer claiming the credit would, in the absence of a specific provision applicable to such taxpayer, be subject to such general income tax, and

(3) Such general income tax is not imposed upon the taxpayer thus subject to such substituted tax.

* * * * *

PAR. 14. Section 31.3502–1 is amended to read as follows:

§ 31.3502–1 Nondeductibility of taxes in computing taxable income.

For provisions relating to the nondeductibility, in computing taxable income under subtitle A, of the taxes imposed by sections 3101, 3201, and 3211, and of the tax deducted and withheld under chapter 24, see §§ 1.164–2 and 1.275–1 of this chapter (Income Tax Regulations). For provisions relating to the credit allowable to the recipient of the income in respect of the tax deducted and withheld under chapter 24, see § 1.31–1 of this chapter (Income Tax Regulations).

[F.R. Doc. 64–10905; Filed, Oct. 26, 1964; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

SYNTHETIC FLAVORING SUBSTANCES AND ADJUVANTS

Proposed Additional Safe Additives

The Commissioner of Food and Drugs, by publication in the FEDERAL REGISTER of May 27, 1964 (29 F.R. 6957), proposed the issuance of a food additive regulation to prescribe the safe use of synthetic flavoring substances and adjuvants. The final order establishing this regulation is published supra in this issue of the FEDERAL REGISTER (21 CFR 121.1164).

The Commissioner has concluded that several additional substances are safe for the proposed use. The same criteria for concluding safety of these substances were applied as in the case of those proposed in the FEDERAL REGISTER of May 27, 1964.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under the authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR 2.90; 29 F.R. 471), the Commissioner proposes that § 121.1164 (29 F.R. _____) be amended by inserting alphabetically in the list in paragraph (b) the following new items:

§ 121.1164 Synthetic flavoring substances and adjuvants.

* * * * *

(b) * * *

Anisyl phenylacetate.
δ-Dodecalactone; 5-hydroxydodecanoic acid, δ-lactone.
Isoamyl acetoacetate.
Isoamyl isobutyrate.
Sorbitan monostearate.

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written comments, preferably in quintuplicate, on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: October 19, 1964.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 64–10930; Filed, Oct. 26, 1964; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71 [New]]

[Airspace Docket No. 64–CE–33]

FEDERAL AIRWAY

Proposed Designation

The Federal Aviation Agency is considering an amendment to Part 71 [New] of the Federal Aviation Regulations which would extend VOR Federal airway No. 524 from Scottsbluff, Nebr., to North Platte, Nebr.

Interested persons may participate in the proposed rule making by submitting such written data, views, or comments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The extension of V–524 would provide a VOR route for aircraft operating direct between Scottsbluff and North Platte which are designated as permanent aircarrier stops.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on October 19, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–10884; Filed, Oct. 26, 1964; 8:45 a.m.]

[14 CFR Part 71 [New]]

[Airspace Docket No. 64–SO–30]

FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Agency is considering an amendment to Part 71 [New] of the Federal Aviation Regulations which would realign VOR Federal airway No. 22 from Brookley, Ala., as a six-mile-wide airway via Pensacola (Saufley Field) Fla.; Intersection of the Saufley 047° and Crestview, Fla., 251° True radials; to Crestview.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, P.O. Box 20636, Atlanta, Ga., 30320. All communications received within 45 days after publication of the notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

VOR Federal airway No. 22 is designated in part from Brookley, Ala., as an 8-nmi-wide airway via Pensacola (Saufley Field), Fla., to Crestview, Fla., excluding the portion of the airway which lies within restricted area R–2915A. The Federal Aviation Agency is considering a proposal submitted by the Department of the Navy to realign this segment of V–22 from Brookley as a 6 nautical mile wide airway via Pensacola (Saufley Field); intersection of the Saufley Field 047° and the Crestview 251° True radials; to Crestview. This proposed realignment and width reduction would provide the Navy with vitally needed, additional off-airway airspace which would be utilized for training purposes. In addition, the realignment would eliminate the overlap with restricted area R–2915A.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on October 19, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–10885; Filed, Oct. 26, 1964; 8:45 a.m.]

[14 CFR Part 71 [New]]

[Airspace Docket No. 64–WE–29]

FEDERAL AIRWAY

Proposed Designation

The Federal Aviation Agency is considering amendments to Part 71 [New] of the Federal Aviation Regulations which would designate an east alternate segment to VOR Federal Airway No. 105 from Reno, Nev., to Coaldale, Nev., via the Yerington intersection and Mina, Nev.; and which would designate an 11,000-foot MSL floor to the segments of V–105 from the Yerington intersection to Coaldale, and V–105 east alternate from Yerington intersection via Mina to Coaldale.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division; Federal Aviation Agency, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif., 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

The present MEA on V–105 between Reno and Coaldale is 12,000 feet. Continuous navigational signal coverage does not exist, however, for that portion from 60 miles southeast of Reno to 45 miles northwest of Coaldale. Therefore, it is proposed that this situation be corrected by raising the MEA on this airway to 14,000 feet.

In order to provide a lower MEA between Reno and Coaldale, it is proposed that an east alternate to V–105 be designated from the Reno VOR to the Mina VOR via the Reno 135° and the Mina 300° True radials, thence to the Mina VOR and direct to the Coaldale VOR. An MEA of 12,000 feet, or lower, would be established for the alternate airway and there would be only a 5 nmi difference between the direct and alternate airway distances.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on October 19, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–10886; Filed, Oct. 26, 1964; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 15670 (RM–638); FCC 64–964]

FM BROADCAST STATIONS

Proposed Table of Assignments for Appleton and Neenah-Menasha, Wis.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it for consideration a petition requesting rule making filed on August 3, 1964, by Mr. John J. Dixon, applicant for a new FM broadcast station on Channel 289 in Neenah-Menasha, Wisconsin, requesting the switch of Channels 289 and 257A between Neenah-Menasha and Appleton, Wisconsin, as follows:

City	Channel No.	
	Present	Proposed
Appleton, Wis.	257A	289
Neenah-Menasha, Wis.	230, 289	230, 257A

WNAM, Inc., the second applicant for Channel 289 at Neenah-Menasha also filed a statement in support of the subject petition.[1]

3. Mr. Dixon states that Appleton, a city of 48,411 population, is located about 6 miles north of Menasha and 8 miles north of Neenah in an area commonly called the Fox Valley of Wisconsin; that the combined population of Neenah and Menasha is 32,704; that these three cities are so close and have so many common civic, cultural, economic and social ties as to be considered one community for allocation purposes. He submits that the assignment of Channel 289 to Appleton and Channel 257A to Neenah-Menasha would meet all the requirements of the rules and would conform to the purpose and intent of section 307(b) of the Communications Act; that it would eliminate the need for a comparative hearing between himself and WNAM, Inc. and so avoid the time, burden and expense of such a hearing; that a station on Channel 289 at Appleton at the site proposed by him would provide service all the people in the Fox cities area; and that the proposal would permit the early institution of FM service to both Appleton and Neenah-Menasha. Mr. Dixon attaches to his petition a copy of a signed agreement between himself and WNAM, Inc. concerning the procedures they will take to amend their applications in the event the instant proposal is adopted.

4. The Commission is of the view that rule making should be instituted on the subject petition in order that all interested parties may submit their views and relevant data.

5. Authority for the adoption of the amendments proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set out in § 1.415 of the Commission rules, interested parties may file comments on or before November 23, 1964, and reply comments on or before December 4, 1964. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

7. In accordance with the provisions of § 1.419 of the rules an original and 14 copies of all written comments, replies, pleadings, briefs, or other documents shall be furnished the Commission.

Adopted: October 21, 1964.

Released: October 22, 1964.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64–10915; Filed, Oct. 26, 1964; 8:48 a.m.]

[1] The Dixon application (BPH–4273) and that of WNAM, Inc. (BPH–4208) are mutually exclusive but have not as yet been designated for a comparative hearing.

[47 CFR Part 73]

[Docket No. 15671 (RM–663); FCC 64–966]

FM BROADCAST STATIONS

Proposed Table of Assignments for Grand Rapids and Ionia, Mich.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it for consideration the joint petition for rule making filed on September 22, 1964 by Atlas Broadcasting Company, licensee of Station WMAX–FM on Channel 267 at Grand Rapids, Michigan, and Country Broadcasting Company, prospective applicant for a new FM station at Ionia, Michigan, requesting rule making to assign Channel 267 to Ionia by deleting it from Grand Rapids. Petitioners also request that the Commission issue an Order to Show Cause why the license of Station WMAX–FM should not be modified to provide for operation at Ionia instead of Grand Rapids, Michigan.

3. Atlas Broadcasting Co. has entered into an agreement for the sale and transfer of Station WMAX–FM, subject to Commission approval, to Country Broadcasting Co., to be operated as an Ionia station. In order to accomplish this, petitioners are requesting the shift of Channel 267, on which WMAX–FM operates at Grand Rapids, from that city to Ionia in the FM Table of Assignments. They urge that Ionia, a community of 6,754 persons, and the county seat of Ionia County with a population of 43,132, has no nighttime primary radio service. The only radio station in the community or county is WION, a daytime-only station, and the county presently has no

FM channel assigned. They point out that Ionia is an important manufacturing, agricultural, trade, and educational center and therefore needs and merits its own FM station. On the other hand, they contend that Grand Rapids has eight Class B stations as well as six standard broadcast stations, three of which are operated unlimited time, and "that Grand Rapids per capita may be the most over-supplied city from an aural broadcast standpoint in the United States." Petitioners point out that a study reveals that Grand Rapids, with a population of 177,313, has more FM assignments than any other city within the 150,000 to 200,000 population grouping and that as a result, the overall operation of these stations, including WMAX-FM, is unprofitable. It is argued that as a result the proposed move of the channel to Ionia from Grand Rapids would serve as an economic benefit to both communities and would afford a fair, efficient and equitable distribution of radio service in the area. Finally, the parties state that Channel 267 can be assigned to Ionia in accordance with the rules and that sites are available at a distance of about 12 miles from Ionia, from which the required signal can be placed over all of Ionia and from which all separations can be met.

4. Atlas and Country refer to a rule making proceeding in Docket 15542, which among other things, invited comments on a proposal to assign Channel 221A to Ionia by making other changes in the Table. This request was originally made by Monroe MacPherson, tr/as Ionia Broadcasting Company, licensee of Station WION at Ionia. Since MacPherson is a principal in Country Broadcasting Co., and Country considers that the assignment of Class B Channel 267 would better serve the interests of the area, petitioners ask the Commission to defer action on the Channel 221A request and state that they will seek dismissal of that request. We will dispose of the 221A request in Docket 15542 and need not consider it further here.

5. The Commission is of the view that rule making should be instituted on the request of the petitioners in order that interested parties may submit their views and relevant data. We are not taking action at this time on the request for a Show Cause Order to Station WMAX-FM, but will take whatever action is appropriate at the termination of this proceeding.

6. Comments are invited on the following:

City	Channel No.	
	Present	Proposed
Grand Rapids, Mich.	229, 239, 245, 250, 267, 275, 281, 289	229, 239, 245, 250, 275, 281, 289
Ionia, Mich.	----------	267

6. Authority for the adoption of the amendment proposed herein is contained in sections 4(i), 303 and 307(b) of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before November 23, 1964, and reply comments on or before December 4, 1964. All submissions by parties to this proceeding or persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

8. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Attention is directed to the provisions of paragraph (c) of § 1.419 which require that any person desiring to file identical documents in more than one docketed rule making proceeding shall furnish the Commission two additional copies of any such document for each additional docket unless the proceedings have been consolidated.

Adopted: October 21, 1964.

Released: October 22, 1964.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-10916; Filed, Oct. 26, 1964; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. R-268]

[18 CFR Part 12]

HYDROELECTRIC LICENSED PROJECTS

Proposed Inspections To Insure Safe Operation

OCTOBER 20, 1964.

1. Notice is given pursuant to section 4 of the Administrative Procedure Act that the Commission is proposing to amend its Regulations Under the Federal Power Act by the prescription of a new Part 12 providing for procedures related to the inspection of hydroelectric projects licensed and operating pursuant to that Act to insure that the project works are maintained and operated safely.

2. Section 10(c) of the Act (16 U.S.C. 804(c)) provides, inter alia, that licensees shall conform to such rules and regulations as the Commission may from time to time prescribe for the protection of life, health and property. The public has a paramount interest in the safety of hydroelectric structures and it is incumbent on the Commission to assure the safe operation of those projects. The regulations proposed herein are to carry out that responsibility.

3. Any interested person may submit to the Federal Power Commission, Washington, D.C., 20426, on or before December 9, 1964, data, views, and comments in writing concerning the proposals set forth herein. The Commission will consider these written submittals before taking any action upon this proposal. An original and nine copies of any such submittals should be filed.

4. Licensed projects are inspected periodically by the Commission's staff but there is a definite limit on the number and detail of government financed inspections. In the exercise of its responsibilities under the Federal Power Act, the Commission finds that additional inspections are required to carry out its obligations and to assure that the Commission and the licensees have accurate information on the condition of project structures and facilities.

5. The Commission is proposing that in addition to existing inspections a periodic detailed inspection of project facilities be made at five-year intervals, and at such intermediate occasions as may be found necessary by the licensee or the Commission's representative, by independent consultants or consulting firms qualified to make the type of inspection necessary in a particular situation. A report of the inspection would then be made to the licensee and the Commission together with such recommendations as to corrective measures as may be required.

6. The regulation here proposed is not intended to relieve or release the licensee from any responsibility for maintenance, operation and inspection of its project to assure its stability and safety, or for immediate notification to the Commission's representative concerning any condition or development which could have an effect on the safety of project structures.

7. While the provisions of the regulation will apply to all projects, the circumstances may warrant complete exemption in particular cases or modification of the requirements with respect to frequency or otherwise. Such exemptions or modifications may be granted by the Commission and it is expected that provisional determinations with respect thereto will be made within the year following the effective date of the regulation. Furthermore, since it would be unnecessary in most cases and in some instances inequitable to require with respect to projects already under license that inspections be made immediately after the issuance of the regulation, the Commission is proposing (see § 12.6(b)) a time schedule for this purpose based upon the length of time a project has been under license.

8. These amendments are proposed to be issued under the authority of the Federal Power Act, as amended, particularly sections 10(c), 304(a) and 309 thereof (49 Stat. 842, 855, 858; 16 U.S.C. 803(c), 825c(a), 825h).

9. Accordingly, it is proposed to amend Subchapter B, Regulations Under the Federal Power Act, Chapter I of Title 18 of the Code of Federal Regulations, by prescribing a new Part 12 to read as follows:

PART 12—INSPECTION OF PROJECT WORKS WITH RESPECT TO SAFETY OF STRUCTURES AND OPERATION

§ 12.1 Applicability.

Unless a complete exemption or modification is granted by the Commission, the provisions of this part shall apply with respect to all projects licensed under Part I of the Federal Power Act.

§ 12.2 Periodic inspections.

Notwithstanding any other terms and conditions of the license, the licensee shall cause a complete inspection of the

project works to be made at least every 5 years in order to determine whether there are any deficiencies or potential deficiencies in the condition of project structures, quality and adequacy of maintenance or methods of operation which might endanger safe operation. Such inspections shall provide pertinent data with respect, but not limited, to such matters as settlement, movement, erosion, seepage, leakage, cracking, examination of internal conditions of stress and hydrostatic pressures in the structure, its foundation and abutments, functioning of foundation drains and relief wells and stability of critical sections of reservoir shorelines.

§ 12.3 Interim inspections.

When an inspection by the licensee or the Commission's staff reveals conditions of concern regarding the safety of any project structure or the operation of the project works, the licensee shall cause to be made such investigation as may be found by the Commission to be warranted under the circumstances.

§ 12.4 Employment of consultants.

The inspections provided for by §§ 12.2 and 12.3 of this part shall be performed by or under the responsibility and direction of a qualified independent consulting engineering firm or such independent engineering or geologic consultants employed by the licensee as the type of structure and the situation may warrant.

§ 12.5 Report of inspections—recommendations.

(a) The report of the consultant thereon, in form satisfactory to the Commission, shall be made available simultaneously to both the licensee and the Commission. If, during the course of an inspection, conditions are disclosed which indicate the need for emergency corrective measures, the consultant shall immediately report the situation to the licensee and the Commission.

(b) The report, which shall be made by the consultant, shall include a complete review of any and all items relating to the safety of the project, including records, as pertinent, of observations of pressures, stresses, settlements and similar data, and recommendations if any, as to corrective measures required. The report shall also include any recommendations considered appropriate on instrumentation or periodic observations of the behavior of any features of the project.

(c) Three copies of the report of the consultant shall be filed with the Commission as promptly as possible after the completion of an inspection, either periodic or interim. In any event, licensee shall submit to the Commission, within 30 days following submission of the report or such other time as may be directed by the Commission, any plan of action it proposes to take or any corrective measures that may be recommended and any additional measures that the licensee considers may be required.

§ 12.6 Initial inspection—time for reporting.

(a) *Licenses issued subsequent to the effective date of this part.* The initial inspection required by this part with respect to projects licensed after the effective date hereof shall be made so that the report required by § 12.5, together with licensee's proposal for remedial work, if any, can be submitted to the Commission within 5 years of the date of the first commercial operation of projects constructed under license and within two years of the date of the issuance of license for constructed projects.

(b) *Licenses issued prior to the effective date of this part.* The initial inspection required by this part with respect to the projects licensed before the effective date hereof shall be made so that the report required by § 12.5, together with licensee's proposed for remedial work, if any, can be submitted to the Commission within the time after the effective date hereof specified in the following schedule:

If license was issued:	*Time within which initial report shall be submitted*
Prior to Jan. 1, 1940	18 months
Jan. 1, 1940 to Jan. 1, 1950	27 months
After Jan. 1, 1950	36 months

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 64-10889; Filed, Oct. 26, 1964; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 187]

[Ex Parte No. MC-52]

SCHEDULE RULES FOR CONTRACT CARRIERS OF PROPERTY BY MOTOR VEHICLE

Notice of Proposed Rule Making

At a session of the Interstate Commerce Commission, Division 2, acting as an Appellate Division, held at its office in Washington, D.C., on the 9th day of October A.D. 1964.

Upon consideration of the petition of the Contract Carrier Conference of American Trucking Associations, Inc., filed August 3, 1964, for reconsideration of the order of the Commission, Division 2, dated July 9, 1964, denying a petition seeking amendment of Tariff Circular MF No. 4, 49 CFR 187.0–187.13, to permit motor contract carriers to publish and file looseleaf schedules and amendments thereto, or, in the alternative, for reopening of the matter for oral hearing and further consideration upon the record so developed; and for good cause appearing:

It is ordered, That the above-entitled proceeding be, and it is hereby, reopened, and that a proceeding be, and it is hereby, instituted under authority of Part II of the Interstate Commerce Act, sections 204 and 218, and section 4 of the Administrative Procedure Act for the purpose of determining whether § 187.5 of Tariff Circular MF No. 4, 49 CFR 187.0–187.13, should be amended to permit the publication and filing of looseleaf schedules by motor contract carriers of property operating in interstate or foreign commerce.

It is further ordered, That the Bureau of Inquiry and Compliance of this Commission be, and it is hereby, directed to participate in this proceeding.

It is further ordered, That this proceeding be handled under modified procedure, the filing and service of pleadings to be as follows: (a) Opening statement of facts and argument by petitioner (and any parties supporting petitioner) on or before 30 days from the date of service of this order; (b) 30 days after that date statement of facts and argument by any party opposing petitioner, or taking a neutral position with respect thereto; and (c) 10 days thereafter reply by party described in (a).

And it is further ordered, That a copy of this order be served on petitioner and on all Public Utility Commissions or Boards, or similar regulatory bodies, of each State; that a copy be posted in the Office of the Secretary of the Interstate Commerce Commission for public inspection; and that a copy be delivered to the Director, Division of the Federal Register, for publication in the FEDERAL REGISTER.

By the Commission, Division 2, acting as an Appellate Division.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 64-10902; Filed, Oct. 26, 1964; 8:47 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 64-61]

EQUIPMENT, INSTALLATIONS, OR MATERIALS

Approval and Termination of Approval Notice

1. Various items of lifesaving, firefighting, and miscellaneous equipment, installations, and materials used on merchant vessels subject to Coast Guard inspection or on certain motorboats and other pleasure craft are required by law and various regulations in 46 CFR Chapter I to be of types approved by the Commandant, United States Coast Guard. The procedures governing the granting of approvals and the cancellation, termination or withdrawal of approvals are set forth in 46 CFR 2.75-1 to 2.75-50, inclusive. For certain types of equipment, installations, and materials, specifications have been prescribed by the Commandant and are published in 46 CFR Parts 160 to 164, inclusive (Subchapter Q—Specifications), and detailed procedures for obtaining approvals are also described therein.

2. The Commandant's approval of a specific item is intended to provide a control over its quality. Therefore, such approval applies only to the item constructed or installed in accordance with the applicable requirements and the details described in the specific approval. If a specific item when manufactured does not comply with the details in the approval, then such item is not considered to have the Commandant's approval, and the certificate of approval issued to the manufacturer does not apply to such modified item. For example, if an item is manufactured with changes in design or material not previously approved, the approval does not apply to such modified item.

3. After a manufacturer has submitted satisfactory evidence that a particular item complies with the applicable laws and regulations, a Certificate of Approval (Form CGHQ-10030) will be issued to the manufacturer certifying that the item specified complies with the applicable laws and regulations and approval is given, which will be in effect for a period of 5 years from the date given unless sooner canceled or suspended by proper authority.

4. The purpose of this document is to notify all concerned that certain approvals were granted or terminated, as described in this document, during the period from May 18, 1964 to June 29, 1964 (List Nos. 16-64, 17-64, 18-64). These actions were taken in accordance with procedures set forth in 46 CFR 2.75-1 to 2.75-50, inclusive.

5. The delegations of authority for the Coast Guard's actions with respect to approvals may be found in section 632, of Title 14, U.S. Code, and Treasury Department Orders 120 dated July 31, 1950 (15 F.R. 6521), 167-14 dated November 26, 1954 (19 F.R. 8026), 167-15 dated January 3, 1955 (20 F.R. 840), 167-20 dated June 18, 1956 (21 F.R. 4894), CGFR 56-28 dated July 24, 1956 (21 F.R. 5659), or 167-38 dated October 26, 1959 (24 F.R. 8857), and the statutory authority may be found in R.S. 4405, as amended, 4462, as amended, 4488, as amended, 4491, as amended, secs. 1, 2, 49 Stat. 1544, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 70 Stat. 152 (46 U.S.C. 375, 416, 481, 489, 367, 526p, 1333, 390b), sec. 4(e), 67 Stat. 462 (43 U.S.C. 1333(e)), or sec. 3(c), 68 Stat. 675 (50 U.S.C. 198), and implementing regulations in 46 CFR Chapter I or 33 CFR Chapter I.

6. In Part I of this document are listed the approvals granted which shall be in effect for a period of 5 years from the dates granted, unless sooner canceled or suspended by proper authority.

7. In Part II of this document are listed the approvals which have been terminated. Notwithstanding this termination of approvals of the items of equipment as listed in Part II such equipment may be used so long as such equipment is in good and serviceable condition.

PART I—APPROVALS OF EQUIPMENT, INSTALLATIONS, OR MATERIALS

WINCHES, LIFEBOAT

Approval No. 160.015/73/1, Type H-55A lifeboat winch for use with Type G-55P gravity pivot davit, approved for a maximum working load of 5,500 pounds pull at the drums (2,750 pounds per fall), identified by sectional view drawing 3684-3, revision C dated May 8, 1958, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N.J., effective June 8, 1964. (Used only with Type G-55 gravity pivot davit (Approval No. 160.032/158/2).) (It reinstates Approval No. 160.015/73/1 which was terminated January 6, 1964.)

DAVITS

Approval No. 160.032/158/2, gravity pivot davit, Type G-55-P, for use with Type H-55A lifeboat winch, approved for a maximum working load of 11,000 pounds per set (5,500 pounds per arm), using two-part falls, identified by general arrangement drawing 3684, revision H dated March 13, 1964, and drawing list dated March 17, 1964, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N.J., effective June 8, 1964. (It reinstates and supersedes Approval No. 160.032/158/1 which was terminated January 6, 1964.)

LIFEBOATS

Approval No. 160.035/398/0, 24.0′ x 8.0′ x 3.58′ steel, oar-propelled lifeboat, 40-person capacity, with removable interior, identified by construction and arrangement drawing No. 80226 dated January 30, 1959, and revised March 24, 1959, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N.J., effective June 17, 1964. (It is an extension of Approval No. 160.035/398/0 dated June 20, 1959.)

INFLATABLE LIFE RAFTS

Approval No. 160.051/28/0, inflatable life raft, 15-person capacity, identified by general arrangement drawing PE-E-1047, revision H dated December 7, 1960, and specifications, revision G dated May 19, 1964, manufactured by United States Rubber Transportation Products Dept., 10 Eagle Street, Providence 1, R.I., effective June 18, 1964. (Satisfies requirements for inflatable life raft of 1960 International Convention for Safety of Life at Sea.)

FIRE PROTECTIVE SYSTEMS

Approval No. 161.002/4/2, audible and visual, supervised smoke detecting system, Model ESDS-1 (General Schematic Wiring Diagram No. 94386, Change 3), up to 44 lines, consisting of 6 major components:

1. Control Unit—Smoke Detector Cabinet, Drawing No. 93325 or 94320.
2. Engineroom Alarm, Drawing No. 93865.
3. Wheelhouse Annunciator Panel, Drawing No. 94280.
4. Twin Suction Blower, Drawing No. 94180.
5. 3″ Air Direction Valve, Drawing No. 93825.
6. Main Circuit Breaker (CB-1), Drawing No. 88920.

manufactured by Fyr-Fyter Company, Newark Branch Office, P.O. Box 750, Newark 1, N.J., effective June 17, 1964. (Additional data contained in Commandant (MMT-1) letter of 12 April 1962, file JJ/161.002/4 with its enclosures.) (It supersedes Approval No. 161.002/4/1 dated April 12, 1962.)

FLASHLIGHTS, ELECTRIC, HAND

Approval No. 161.008/5/1, No. 1918 waterproof flashlight, Type I, size 2 (2-cell), identified by assembly drawing No. 3F-1833 dated May 4, 1964, manufactured by Bright Star Industries, Clifton, N.J., effective June 5, 1964. (Each flashlight shall be plainly and permanently marked with the name of the manufacturer and above model number.) (It supersedes Approval No. 161.008/5/0 dated February 7, 1964.)

Approval No. 161.008/6/1, No. 1925 waterproof flashlight, Type I, size 3 (3-cell), identified by assembly drawing No. 3F-1833 dated May 4, 1964, manufactured by Bright Star Industries, Clifton, N.J., effective June 5, 1964. (Each flashlight shall be plainly marked with the name of the manufacturer and above model number.) (It supersedes Approval No. 161.008/6/0 dated February 7, 1964.)

Approval No. 161.008/7/1, No. 1917 explosion-proof flashlight, Type II, size 2 (2-cell), identified by assembly drawing No. 3F–1729–A dated April 8, 1964, and revised May 19, 1964, manufactured by Bright Star Industries, Clifton, N.J., effective June 5, 1964. (Each flashlight shall be plainly marked with the name of the manufacturer and above model number.) (It supersedes Approval No. 161.008/7/1 dated January 18, 1960.)

Approval No. 161.008/8/1, No. 1924 explosion-proof flashlight, Type II, size 3 (3-cell), identified by assembly drawing No. 3F–1729–A dated April 8, 1964, and revised May 19, 1964, manufactured by Bright Star Industries, Clifton, N.J., effective June 5, 1964. (Each flashlight shall be plainly marked with the name of the manufacturer and above model number.) (It supersedes Approval No. 161.008/8/1 dated January 18, 1960.)

Approval No. 161.008/11/1, Eveready Model No. 304, flashlight, waterproof, Type I, size No. 2 (2-cell) identified by Bright Star Industries assembly drawing No. 3F–1788–A dated May 27, 1963, manufactured by Bright Star Industries, Clifton, N.J., for Union Carbide Consumers Products Co., 270 Park Avenue, New York 17, N.Y., effective June 5, 1964. (It supersedes Approval No. 161.008/11/0 dated July 17, 1963.)

Approval No. 161.008/12/1, Eveready Model No. 305, flashlight, waterproof, Type I, size No. 3 (3-cell), identified by Bright Star Industries assembly drawing No. 3F–1787–A dated May 27, 1963, manufactured by Bright Star Industries, Clifton, N.J., for Union Carbide Consumers Products Co., 270 Park Avenue, New York 17, N.Y., effective June 5, 1964. (It supersedes Approval No. 161.008/12/0 dated July 17, 1963.)

INDICATORS, BOILER WATER LEVEL, SECONDARY TYPE

Approval No. 162.025/41/1–44/1, Reliance Eye-Hye secondary type boiler water level indicators, remote reading, 400 p.s.i. maximum pressure, drawing No. D–6610–4 dated February 19, 1949, approved for the following model numbers:

Approval number:	*Model number*
162.025/41/1	E400
162.025/42/1	E400–A
162.025/43/1	E400–B
162.025/44/1	E400–C

manufactured by The Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, Ohio, 44135, effective June 5, 1964. (It supersedes Approval No. 162.025/41/1–44/1, inclusive, dated January 22, 1963, to show change of name and address of manufacturer.)

Approval No. 162.025/45/1–48/1, Reliance Eye-Hye secondary type boiler water level indicators, remote reading, 400 p.s.i. maximum pressure, drawing No. D–6611–4 dated February 22, 1949, approved for the following model numbers:

Approval number:	*Model number*
162.025/45/1	E401
162.025/46/1	E401–A
162.025/47/1	E401–B
162.025/48/1	E401–C

manufactured by The Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, Ohio, 44135, effective June 5, 1964. (It supersedes Approval No. 162.025/45/1–48/1, inclusive, dated January 22, 1963, to show change in name and address of manufacturer.)

Approval No. 162.025/49/1–52/1, Reliance Eye-Hye secondary type boiler water level indicators, remote reading, 600 p.s.i. maximum pressure, drawing No. 6612–4 dated February 10, 1949, approved for the following model numbers:

Approval number:	*Model number*
162.025/49/1	E600
162.025/50/1	E600–A
162.025/51/1	E600–B
162.025/52/1	E600–C

manufactured by The Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, Ohio, 44135, effective June 5, 1964. (It supersedes Approval No. 162.025/49/1–52/1, inclusive, dated January 22, 1963, to show change in name and address of manufacturer.)

Approval No. 162.025/80/0–82/0, Reliance Eye-Hye secondary type boiler water level indicators, remote reading, 2500 p.s.i. maximum pressure, drawing No. B–8403 dated October 25, 1956, approved for the following model numbers:

Approval number:	*Model number*
162.025/80/0	E2501
162.025/81/0	E2501A
162.025/82/0	E2501B

manufactured by The Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, Ohio, 44135, effective June 5, 1964. (It supersedes Approval No. 162.025/80/0–82/0, inclusive, dated January 22, 1963, to show change of name and address of manufacturer.)

PART II—TERMINATIONS OF APPROVAL OF EQUIPMENT, INSTALLATIONS, OR MATERIALS

LIFEBOATS

Termination of Approval No. 160.035/372/0, 26.0′ x 8.75′ x 3.75′ steel, hand-propelled lifeboat, 53-person capacity, identified by general arrangement drawing No. G–2653–H dated April 1957, and revised February 26, 1959, manufactured by C. C. Galbraith & Son, Inc., 99 Park Place, New York 7, N.Y., effective June 20, 1964. (Expiration and termination of Approval No. 160.035/372/0 dated June 20, 1959.)

Termination of Approval No. 160.035/387/0, 24.0′ x 8.0′ x 3.5′ fibrous glass reinforced plastic, oar-propelled lifeboat, 40-person capacity, identified by general arrangement drawing No. 57–2448 dated December 30, 1958, and revised February 16, 1959, manufactured by Lane Lifeboat & Davit Corp., 8920 26th Avenue, Brooklyn 14, N.Y., effective June 20, 1964. (Expiration and termination of Approval No. 160.035/387/0 dated June 20, 1959.)

Termination of Approval No. 160.035/391/0, 28′ x 9.79′ x 4.13′ aluminum (Class A), motor-propelled lifeboat, 60-person capacity, identified by general arrangement drawing No. 28–9B, revision C dated February 4, 1959, manufactured by Marine Safety Equipment Corp., Point Pleasant, N.J., effective June 20, 1964. (Expiration and termination of Approval No. 160.035/372/0 dated June 20, 1959.)

BUOYANT VESTS, KAPOK OR FIBROUS GLASS, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Termination of Approval No. 160.047/502/0, Type I, Model AK–1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Ero Manufacturing Co., Crystal Lake, Ill.; and Hazlehurst, Ga., for The S & M Co., Arthur and Kennedy Streets, Minneapolis 13, Minn., effective June 29, 1964. (Termination of Approval No. 160.047/502/0 dated February 3, 1961, because item is no longer manufactured.)

Termination of Approval No. 160.047/503/0, Type I, Model CKM–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Ero Manufacturing Co., Crystal Lake, Ill.; and Hazlehurst, Ga., for The S & M Co., Arthur and Kennedy Streets, Minneapolis 13, Minn., effective June 29, 1964. (Termination of Approval No. 160.047/503/0 dated February 3, 1961, because item is no longer manufactured.)

Termination of Approval No. 160.047/504/0, Type I, Model CKS–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Ero Manufacturing Co., Crystal Lake, Ill.; and Hazlehurst, Ga., for The S & M Co., Arthur and Kennedy Streets, Minneapolis 13, Minn., effective June 29, 1964. (Termination of Approval No. 160.047/504/0 dated February 3, 1961, because item is no longer manufactured.)

Termination of Approval No. 160.047/523/0, Type I, Model AK–1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Ero Manufacturing Co., Crystal Lake, Ill.; and Hazlehurst, Ga., for S. H. Barton & Co., 4910 South Vermont Avenue, Los Angeles 37, Calif., effective June 29, 1964. (Termination of Approval No. 160.047/523/0 dated December 12, 1961, because item is no longer manufactured.)

Termination of Approval No. 160.047/524/0, Type I, Model CKM–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Ero Manufacturing Co., Crystal Lake, Ill.; and Hazlehurst, Ga., for S. H. Barton & Co., 4910 South Vermont Avenue, Los Angeles 37, Calif., effective June 29, 1964. (Termination of Approval No. 160.047/524/0 dated December 12, 1961, because item is no longer manufactured.)

Termination of Approval No. 160.047/525/0, Type I, Model CKS–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Ero Manufacturing Co., Crystal Lake, Ill.; and Hazlehurst, Ga., for S. H. Barton & Co., 4910 South Vermont Avenue, Los Angeles 37, Calif., effective June 29, 1964. (Termination of Approval No. 160.047/525/0 dated December 12, 1961, because item is no longer manufactured.)

BUOYANT CUSHIONS, KAPOK OR FIBROUS GLASS

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Termination of Approval No. 160.048/212/0, group approval for rectangular

and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048–4(c)(1)(i), manufactured by Ero Manufacturing Co., Crystal Lake, Ill.; and Hazlehurst, Ga., for S. H. Barton & Co., 4910 South Vermont Avenue, Los Angeles 37, Calif., effective June 29, 1964. (Termination of Approval No. 160.048/212/0 dated December 12, 1961, because item is no longer manufactured.)

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Termination of Approval No. 160.052/51/0, Type I, Model AP, adult unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052 manufactured by Iowa Fibre Products, Inc., 2425 Dean Avenue, Des Moines 17, Iowa, for Nu-Way Sporting Goods Co., 708 Eighth Street, Sioux City 2, Iowa, effective June 20, 1964. (Expiration and termination of Approval No. 160.052/51/0 dated June 20, 1959.)

Termination of Approval No. 160.052/52/0, Type I, Model CPM, child unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Iowa Fibre Products, Inc., 2425 Dean Avenue, Des Moines 17, Iowa, for Nu-Way Sporting Goods Co., 708 Eighth Street, Sioux City 2, Iowa, effective June 20, 1964. (Expiration and termination of Approval No. 160.052/52/0 dated June 20, 1959.)

Termination of Approval No. 160.052/53/0, Type I, Model CPS, child unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Iowa Fibre Products, Inc., 2425 Dean Avenue, Des Moines 17, Iowa, for Nu-Way Sporting Goods Co., 708 Eighth Street, Sioux City 2, Iowa, effective June 20, 1964. (Expiration and termination of Approval No. 160.052/53/0 dated June 20, 1959.)

Termination of Approval No. 160.052/67/0, Type I, Model AP, adult unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Canvas Specialty Manufacturing Co., 7344 East Bandini Boulevard, Los Angeles 22, Calif., effective June 20, 1964. (Expiration and termination of Approval No. 160.052/67/0 dated June 20, 1959.)

Termination of Approval No. 160.052/68/0, Type I, Model CPM, child unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Canvas Specialty Manufacturing Co., 7344 East Bandini Boulevard, Los Angeles 22, Calif., effective June 20, 1964. (Expiration and termination of Approval No. 160.052/68/0 dated June 20, 1959.)

Termination of Approval No. 160.052/69/0, Type I, Model CPS, child unicellular plastic foam buoyant vest, U.S.C.G. Specification Subpart 160.052, manufactured by Canvas Specialty Manufacturing Co., 7344 East Bandini Boulevard, Los Angeles 22, Calif., effective June 20, 1964. (Expiration and termination of Approval No. 160.052/69/0 dated June 20, 1959.)

Dated: October 16, 1964.

[SEAL] E. J. ROLAND,
Admiral, U.S. Coast Guard Commandant.

[F.R. Doc. 64–10908; Filed, Oct. 26, 1964; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM 079909]

MINNESOTA

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 21, 1964.

On September 4, 1964, the Forest Service, Department of Agriculture, filed application BLM 079909, amended October 14, 1964, for the withdrawal of the lands described below from disposition under the public land laws for inclusion in the Superior National Forest, Minn.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Washington, D.C., 20240.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary of the Interior on the application will be published in the FEDERAL REGISTER. A copy of the notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

T. 50 N., R. 20 W., fourth principal meridian, Minnesota,
Sec. 29, lot 6, 2.25; lot 7, 0.12.
T. 58 N., R. 7 W.,
Sec. 30, lot 10, 21.15; lot 11, 1.75; lot 12, 17.48; lot 13, 39.65; lot 15, 3.81; lot 16, 1.00.
T. 61 N., R. 16 W.,
Sec. 7, SE¼SE¼, 40.00.
T. 62 N., R. 20 W.,
Sec. 6, lot 10, 40.00;
Sec. 17, SW¼NE¼, SE¼NE¼, 80.00.
T. 65 N., R. 20 W.,
Sec. 22, lot 5, 0.17.

Containing a total area of 247.38 acres.

DORIS A. KOIVULA,
Manager, Land Office.

[F.R. Doc. 64–10895; Filed, Oct. 26, 1964; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

IDENTIFICATION OF CARCASSES OF CERTAIN HUMANELY SLAUGHTERED LIVESTOCK

Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 181.1, the lists (29 F.R. 9509, 11133, 12406 and 13435) of establishments which are operated under Federal inspection pursuant to the Meat Inspection Act (21 U.S.C. 71 et seq.) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as follows:

The reference to Dunn Meat Packers, Inc., establishment 348, and the reference to swine with respect to such establishment are deleted. The reference to Ross Packing Company, establishment 645, and the reference to cattle with respect to such establishment are deleted.

The following table lists species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Armour & Co.	2W					(*)	
Samuels & Co., Inc.	29	(*)	(*)				
The Lundy Packing Co.	413A					(*)	
Snider Bros., Inc.	512	(*)	(*)				
Black Hills Packing Co.	554W	(*)					
New Establishments Reporting: 5.							
Swift & Co.	3E				(*)		
Glover Packing Co. of Amarillo	60A		(*)				
Auburn University	71		(*)				
Samuels & Co., Inc.	94	(*)					
Armour & Co.	100		(*)				
John Morrell & Co.	126				(*)		
Armour & Co.	579		(*)				
Samuels & Co., Inc.	878				(*)		
Species Added: 8.							

Done at Washington, D.C., this 22d day of October 1964.

C. H. PÀLS,
Director, Meat Inspection Division, Agricultural Research Service.

[F.R. Doc. 64–10922; Filed, Oct. 26, 1964; 8:48 a.m.]

Agricultural Stabilization and Conservation Service

SUGARBEETS

Notice of Hearing

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended (61 Stat. 922) is preparing to receive views and recommendations from all interested persons on the allocation of the national sugarbeet acreage requirement, excluding 118,815 acres previously made available to localities under the sugarbeet acreage reserve, to States and the establishment of proportionate shares (farm acreage allotments) for the 1965 sugarbeet crop. A 1965-crop national sugarbeet acreage requirement of 1,375,000 acres was announced previously by the Department of Agriculture.

This action was recommended by the major sugarbeet grower associations and by all of the sugarbeet processors.

In accordance with the provisions of section 302 of the Sugar Act of 1948, as amended, an informal public hearing will be held in the Hilton Inn, San Francisco International Airport, San Francisco, California, beginning at 10:00 a.m. on October 27, 1964, to receive the views and recommendations of interested persons on this subject.

Views and recommendations are desired on all phases of the proportionate share program, particularly on the following:

1. The method (formula) of dividing the national acreage requirement of 1,375,000 acres, not including the 118,815 acres previously made available to localities under the sugarbeet acreage reserve, among sugarbeet producing States.

2. The method (formula) of establishing allotments for areas within States and for establishing individual farm acreage allotments.

3. The level of set-asides for new producers, appeals and adjustments.

Briefs may be presented at the hearing (in original and two copies), or mailed to the Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C., 20250, so as to be received not later than November 6, 1964.

Effective date: Date of publication.

Signed at Washington, D.C., on October 19, 1964.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 64-10898; Filed, Oct. 26, 1964; 8:46 a.m.]

Office of the Secretary

MARYLAND

Extension of Period for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Maryland a natural disaster for which said counties were designated (28 F.R. 9885) has continued and has resulted in a continuing need in those counties for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MARYLAND

Anne Arundel.	Prince Georges.
Calvert.	St. Marys.
Charles.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after December 31, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 22d day of October 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 64-10924; Filed, Oct. 26, 1964; 8:49 a.m.]

TEXAS

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named county in the State of Texas natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

TEXAS

Lamb.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 22d day of October 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 64-10925; Filed, Oct. 26, 1964; 8:49 a.m.]

ARKANSAS, MINNESOTA, AND TEXAS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Arkansas, Minnesota, and Texas natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ARKANSAS

Ashley.	Desha.
Chicot.	Lincoln.

MINNESOTA

Marshall.	Red Lake.
Pennington.	Roseau.

TEXAS

Bailey.	Hansford.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named Minnesota counties after December 31, 1965, or in the above-named Arkansas and Texas counties after June 30, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 22d day of October 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 64-10923; Filed, Oct. 26, 1964; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 22-65]

FIRMA A. BAKKEREN

Order Extending Temporary Denial of Export Privileges

In the matter of A. Bakkeren, doing business as Firma A. Bakkeren, Kerkhofweg 3, Breda, The Netherlands, File 22-65; respondent.

An order temporarily denying export privileges for a period of sixty days was issued in the above matter on August 25, 1964 (29 F.R. 12481). Said order was issued in connection with an investigation instituted by the Investigations Division, Office of Export Control, Bureau of International Commerce, into activities of the respondent: In engaging in trade and participating in transactions, involving commodities exported from the United States, with persons who have been denied U.S. export privileges; and in participating in the diversion, transshipment and reexportation of U.S. origin commodities to prohibited destinations, in contravention of the United States Export Control Act and regulations thereunder.

The Director of said Investigations Division has applied under § 382.11 of the Export Regulations for an extension of the temporary denial order. He represents that a charging letter will be issued against the respondent in the near future.

The matter has been considered by the Compliance Commissioner and he has reported his recommendation to me that the present temporary order be extended until the completion of administrative compliance proceedings and that such

extension is reasonably necessary to protect the public interest pending final disposition of the proceedings and is necessary for the effective enforcement of the law. I do so find.

Accordingly, it is hereby ordered:

I. The provisions and restrictions of the temporary order issued against the above respondent on August 25, 1964 (29 F.R. 12481) are hereby continued in full force and effect.

II. The respondent, his successors or assigns, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the U.S. or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to his agents and employees and to any successor and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order continues in full force and effect the provisions and restrictions of the temporary denial order of August 25, 1964, and shall remain in effect until the completion of administrative compliance proceedings unless it is hereafter amended, modified, or vacated in accordance with the provisions of the United States Export Regulations.

V. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served upon the respondent.

VII. In accordance with the provisions of § 382.11(c) of the Export Regulations, the respondent may move at any time to vacate or modify this temporary denial order by filing an appropriate motion therefor, supported by evidence, with the Compliance Commissioner and may request an oral hearing thereon which, if requested, shall be held before the Compliance Commissioner in Washington, D.C., at the earliest convenient date.

Dated: October 21, 1964.

FORREST D. HOCKERSMITH,
Director, Office of Export Control.

[F.R. Doc. 64-10904; Filed, Oct. 26, 1964; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

MARKET TESTING OF FROZEN WHOLE EGGS DEVIATING FROM IDENTITY STANDARD

Notice of Issuance of Temporary Permit

Pursuant to § 10.5(j) of Title 21, Code of Federal Regulations, concerning temporary permits to facilitate market testing of foods varying from the requirements of standards of identity promulgated pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to Standard Brands Incorporated, 625 Madison Avenue, New York, New York. This temporary permit covers interstate marketing tests of frozen whole eggs deviating from the requirements of the standard of identity for that food (21 CFR 42.20). Prior to freezing a water solution of monosodium phosphate is to be added in such quantity as to contribute not more than 0.5 percent of monosodium phosphate and not more than 0.5 percent of added water to the finished food. The product will be labeled to show these added ingredients. This permit expires October 15, 1965.

Dated: October 19, 1964.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 64-10931; Filed, Oct. 26, 1964; 8:49 a.m.]

GLASTIC CORP.

Notice of Filing of Petition Regarding Food Additives Polyester-Styrene Copolymer Resins

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 5B1511) has been filed by The Glastic Corporation, 4321 Glenridge Road, Cleveland, Ohio, 44121, proposing that § 121.2576 *Unsaturated polyester-styrene copolymer resins* be amended by adding lauroyl peroxide as a catalyst, benzoquinone as an inhibitor, and titanium dioxide, polyethylene glycol 6000, and asbestos as miscellaneous materials to the table under paragraph (b). It is further proposed to limit benzoquinone to 0.01 percent by weight of finished resin.

Dated: October 21, 1964.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 64-10932; Filed, Oct. 26, 1964; 8:49 a.m.]

B. A. TROTTER, INC.

Notice of Filing of Petition Regarding Food Additives Antioxidants and/or Stabilizers

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 petitions (FAP 4B1250 and 4B1353) have been filed by B. A. Trotter, Inc., 939 Port Washington Boulevard, Port Washington, New York, 11050, proposing that paragraph (b) of § 121.2566 *Antioxidants and/or stabilizers for polymers* be amended by inserting alphabetically in the list of substances in the table the following items:

Magnesium salicylate.	For use only in rigid polyvinyl chloride, provided that total salicylates (calculated as the acid), do not exceed 0.3 percent by weight of the polymer.
Pentaerythritol and its stearate ester.	For use only in rigid polyvinyl chloride, provided that the total amount of pentaerythritol and/or pentaerythritol stearate (calculated as free pentaerythritol) does not exceed 0.4 percent by weight of the polymer.
Zinc salicylate----	For use only in rigid polyvinyl chloride, provided that total salicylates (calculated as the acid) do not exceed 0.3 percent by weight of the polymer.

Dated: October 21, 1964.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 64-10933; Filed, Oct. 26, 1964; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 15603; Order E-21429]

APACHE AIRLINES, INC.

Order Regarding Establishment of Service Mail Rate

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of October 1964.

The Board, on October 5, 1964, adopted Order E-21358 directing all interested persons, and specifically Apache Airlines, Inc., and the Postmaster General, to show cause why the Board should not adopt the proposed findings and conclusions and fix, determine and publish the rates proposed therein for the mail transportation described.

The time designated for filing notice of objection has elapsed and no notice of objection or answer to the order has been filed by any party. All parties have therefore waived the right to a hearing and all other procedural steps short of a final decision of the Board fixing the final rate.

The Board, upon consideration of the record, hereby reaffirms and makes final the findings set forth in the said order.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof:

It is ordered, That:

1. The fair and reasonable final service mail rate to be paid to Apache Airlines, Inc., pursuant to section 406 of the Act, effective on the date that Apache commences operations under its exemption, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between Douglas, Ariz. and Phoenix, Ariz. and between Douglas, Ariz. and Tucson, Ariz. is the multielement rate established by the Board [1] and as specified in show cause Order E-21358, October 5, 1964, and such rate and the provisional findings and conclusions of such order are incorporated by reference herein.

2. This order be served upon Apache Airlines, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 64-10910; Filed, Oct. 26, 1964; 8:48 a.m.]

[1] Domestic Trunklines, Service Mail Rates, 21 C.A.B. 8 (1955); Allegheny Airlines, Inc., Service Mail Rates, 21 C.A.B. 894 (1955). These orders have been amended from time to time in order to reclassify terminal stations. The latest reclassification order is Order E-20915, dated June 10, 1964.

[Docket No. 14945; Order E-21426]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of October, 1964.

Agreement adopted by Joint Conference 1-2 of the International Air Transport Association relating to specific commodity rates; Docket No. 14945, Agreement C.A.B. 17869, R-11.

There has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, an agreement between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1-2 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 (Commodity Rates Board).

The agreement, adopted pursuant to unprotected notices to the carriers and promulgated in IATA memorandum JT 12/Rates 3208 names an additional specific commodity rate as follows:

Item 2452, Pullovers and Cardigans.
Rate: 78 cents per kilogram, minimum weight 500 kilograms from Helsinki to New York.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act does not find the subject agreement to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That Agreement C.A.B. 17869, R-11, is approved, provided that such approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 64-10911; Filed, Oct. 26, 1964; 8:48 a.m.]

[Docket No. 15563]

SERVICE TO DOUGLAS, ARIZONA CASE

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 10, 1964, at 10:00 a.m., e.s.t., in Room 726, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ralph L. Wiser.

Dated at Washington, D.C., October 22, 1964.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 64-10912; Filed, Oct. 26, 1964; 8:48 a.m.]

[Docket No. 15150]

SOUTHERN-EASTERN TRANSFER CASE

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 19, 1964, at 10:00 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner James S. Keith.

In order to facilitate the conduct of the conference, interested parties are instructed to submit to the examiner and other parties on or before November 9, 1964, (1) motions pertaining to the scope of the proceeding; (2) proposed statements of issues; (3) proposed stipulations; (4) requests for information; (5) statements of positions of parties; and (6) proposed procedural dates.

Dated at Washington, D.C., October 22, 1964.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 64-10913; Filed, Oct. 26, 1964; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 14411, 14412; FCC 64M-1041]

LA FIESTA BROADCASTING CO. AND MID-CITIES BROADCASTING CORP.

Order Continuing Hearing

In re applications of J. R. Earnest and John A. Flache, d/b as La Fiesta Broadcasting Company, Lubbock, Texas, Docket No. 14411, File No. BP-14116; Mid-Cities Broadcasting Corporation, Lubbock, Texas, Docket No. 14412, File No. BP-15073; for construction permits.

In view of the Hearing Examiner's order FCC 64M-1037, 58402, released October 20, 1964: *It is ordered*, On the Hearing Examiner's own motion, this 21st day of October 1964, that the hearing in the above-entitled matter now scheduled for October 26, 1964, is continued to 10:00 a.m., November 23, 1964, in the Commission's offices in Washington, D.C.

Released: October 22, 1964.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-10917; Filed, Oct. 26, 1964; 8:48 a.m.]

[Docket No. 15089 etc.; FCC 64R-493]

SPANISH INTERNATIONAL TELEVISION CO., INC., ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Spanish International Television Company, Inc., Paterson, New Jersey, Docket No. 15089, File No. BPCT-3032; Bartell Broadcasters, Inc., Paterson, New Jersey, Docket No. 15091, File No. BPCT-3103; Trans-Tel

Corp., Paterson, New Jersey, Docket No. 15092, File No. BPCT-3114; for construction permits for new television broadcast stations.

By the Review Board: Board Member Nelson abstaining.

1. The Review Board has before it for consideration a motion to delete issues, filed September 14, 1964, by Trans-Tel Corp. (Trans-Tel) in which the movant seeks deletion of Issue 7 (as it applies to its application) and Issue 9 as designated in the Commission's Hearing Order (FCC 63-490, released June 3, 1963). Trans-Tel's motion is supported by the Broadcast Bureau in comments filed September 21, 1964, and is not opposed by any other party.

2. Issue 7 pertains to the feasibility of locating the proposed UHF antenna of Trans-Tel and Bartell Broadcasters, Inc. (Bartell)[1] on the Empire State Building. Trans-Tel notes that since designation of this issue, the Commission has determined in another proceeding that location of a UHF antenna system, of a specified type, on the Empire State Building, is feasible. New Jersey Television Broadcasting Corporation, FCC 64-296, 2 R.R. 2d 263 (1964). Having now amended its application[2] to specify the Empire State Building type-accepted antenna for its proposal, Trans-Tel submits that, since the Commission itself has made the determination called for by Issue 7, this issue is now moot as to its application and should be deleted. The Bureau supports Trans-Tel's position, but would delete Issue 7 in its entirety, since the Commission's determination is equally applicable to Bartell's proposal in this proceeding, inasmuch as Bartell has similarly amended its application. This motion does not involve an attempt to resolve a designated issue by way of interlocutory pleadings. Compare: Geoffrey A. Lapping, FCC 63R-349, 1 R.R. 2d 159 (1963). On the contrary, as Trans-Tel indicates, the feasibility question has been finally determined by the Commission in favor of the applicants' proposals. Issue 7 will therefore be deleted in its entirety.

3. Issue 9, which pertains only to Trans-Tel's proposal, relates to a possible violation of the Commission's multiple ownership rule (section 73.636(a)(1)) by grant of Trans-Tel's application. At the time of designation of the applications for hearing there appeared to be an overlap of Trans-Tel's proposal with Station WHNB-TV, New Britain, Connecticut, in which Trans-Tel has a minority stock interest. Trans-Tel states that it has amended its application so as to reduce its power to delete any possible overlap between its proposal and Station WHNB-TV. The Bureau states that Trans-Tel's amendment was in conformity with the Commission's directions contained in footnote 23 to the Report and Order concerning the recent amendment of section 73.636 (FCC 64-445, released June 9, 1964), that pending applications be amended so as to eliminate possible overlap or be dismissed. The Bureau notes that Trans-Tel's amendment was proffered for the purpose of complying with the Commission's directive, and, since possible overlap has been eliminated, Issue 9 should be deleted. In view of the special circumstances noted by the Bureau, Trans-Tel's motion will also be granted as to Issue 9. Cf: Edina Corp., FCC 62R-82, 24 RR 455 (1962).

Accordingly, it is ordered, This 21st day of October 1964, that the motion to delete issues, filed September 14, 1964, by Trans-Tel Corp. is granted; and

It is further ordered, That Issues 7 and 9 presently designated in this proceeding are deleted.

Released: October 22, 1964.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-10918; Filed, Oct. 26, 1964; 8:48 a.m.]

[1] This issue also refers to a third application which has been dismissed.

[2] The amendment was accepted by Examiner's Order FCC 64M-833, released September 4, 1964.

[FCC 64-960]

SOUTH DADE BROADCASTING CO., INC.

Standard Broadcast Application Ready and Available for Processing

OCTOBER 22, 1964.

The application listed below is mutually exclusive with the application, File No. BR-3580, of the licensee of Station WIII, Homestead, Florida, for renewal of license, in that it requests the same channel as that presently assigned to WIII:

New, Homestead, Fla., South Dade Broadcasting Company, Inc., Requests: 1430 kc, 500 w, Day.

Accordingly, notice is hereby given that the above application is accepted for filing and that on December 1, 1964, the application will be considered as ready and available for processing, and pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with this application, or with any other application on file by the close of business on November 30, 1964, which involves a conflict necessitating a hearing with this application, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by whichever date is earlier: (a) The close of business on November 30, 1964; or (b) the earlier effective cutoff date which this application or any other conflicting application may have by virtue of conflicts necessitating a hearing with applications appearing on previous lists.

The Commission hereby waives the provisions of the NOTE to § 1.571 of the Commission's rules, adopted July 1, 1964, to the extent necessary to permit the acceptance of other applications seeking essentially the same facilities.

The attention of any party in interest desiring to file pleadings concerning the above application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: October 21, 1964.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-10919; Filed, Oct. 26, 1964; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 1208; Agreements 9229, 8090]

ITALY, FRANCE, SPAIN AND PORTUGAL/NORTH PACIFIC FREIGHT POOL AND MEDITERRANEAN/NORTH PACIFIC COAST FREIGHT CONFERENCE

Notice of Investigation and Hearing

Agreement 9229 is a pooling arrangement between D'Amico S.N.p.A., "Italia" S.p.A.n., Italnavi S.N.p.A., and Zim Israel Navigation Co., Ltd., covering the division of net freight revenue earned by these lines in the trade from Italian, French and Spanish Mediterranean ports, and Portuguese ports to United States and Canadian Pacific Coast ports which has been filed for approval pursuant to section 15 of the Shipping Act, 1916, as amended.

The parties to Agreement 9229 are members of the Mediterranean/North Pacific Coast Freight Conference (Agreement 8090) which Conference includes within its scope the trade area of said pooling agreement. Article 3 of Agreement 8090 provides that the Conference members may form among themselves pooling agreements covering any or all of the ports under the Conference's jurisdiction subject to approval pursuant to section 15. Such pools may include the entire Conference membership or any portion thereof.

The membership of the Mediterranean/North Pacific Coast Freight Conference includes, in addition to the aforesaid carriers, American President Lines, Ltd. This Conference is authorized to establish rates and conditions for the carriage of cargo in the trades from Mediterranean and Black Sea ports and ports on the Atlantic Coast of Spain, Morocco and Portugal to Pacific Coast ports of the United States and Canada and Hawaii. A modification to Agreement 8090, approved November 17, 1960, provided inter alia, for the establishment of a neutral body system of self-policing. Article 9 thereof reads, in pertinent part, as follows:

There shall be a Neutral Body selected and appointed by the Conference from responsible accountants or other person or persons, not a party to, nor employed by, or financially interested in, any party to the agreement upon such terms as are agreed between the Conference and the Neutral Body. * * *

Pursuant to said section 15 of the Shipping Act, 1916, the Commission is directed after notice and hearing to disapprove any agreement that it finds to

be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or to be in violation of this Act. It further provides that the Commission shall disapprove any such agreement, after notice and hearing, on a finding of inadequate policing of the obligations under it.

Information before the Commission indicates that the trades encompassed by the Mediterranean/North Pacific Coast Freight Conference may have become unstable due to malpractices in these and related trades and that the self-policing provisions of the Conference agreement may not have been implemented to combat these malpractices as required under the Conference agreement. The proposed agreement appears to constitute an attempt by the Conference to remove the incentive for such malpractices, but by doing so the Conference may be seeking to avoid its self-policing obligations under the Conference agreement and section 15 of the Act. It further appears that the approval of a pooling system, such as that contemplated in Agreement 9229, composed of less than the full Conference membership may lead to instability rather than harmony between the Conference members, and thus may result in detriment to the shippers, carriers and the United States foreign commerce, and may be contrary to the public interest.

Now therefore, by authority vested in the Commission;

It is ordered, That, pursuant to sections 15 and 22 of the Shipping Act, 1916, the Commission, upon its own motion enter upon an investigation to determine (1) whether Agreement 9229, if approved, would be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or be contrary to the public interest, or be in violation of the said Act; (2) whether there has been adequate policing of the obligations of the parties to Agreement 8090, as amended, and (3) whether Agreements 9229 and 8090, as amended, should be approved, disapproved or modified in any respect, pursuant to said section 15.

It is further ordered, That the parties to Agreement 9229 and the members of the Conference (Agreement 8090, as amended) be made respondents to this proceeding; and

It is further ordered, That the proceeding herein ordered be assigned for hearing before an examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner; and

It is further ordered, That notice of this Order and notice of hearing be published in the FEDERAL REGISTER, and copy of such order and notice of hearing be served upon respondents.

It is further ordered, That persons other than respondents who desire to become parties to this proceeding and to participate herein shall file with the Secretary, Federal Maritime Commission, Washington, D.C., 20573, a petition to intervene in accordance with Rule 5(n) of the Commission's rules of practice and procedure on or before November 10, 1964, with copy to each of the respondents.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference shall be mailed directly to all parties of record.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 64-10899; Filed, Oct. 26, 1964; 8:46 a.m.]

STATES MARINE LINES AND SEA-LAND SERVICE, INC.

Notice of Agreements Filed for Approval

Notice is hereby given that the following Agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

A. J. Bruno, Traffic Supervisor,
Sea-Land Service, Inc.,
Puerto Rican Division,
Post Office Box 1050, Elizabeth, N.J. 07207.

Agreement 9389 between States Marine Line, Inc., Global Bulk Transportation Corporation (States Marine Lines) referred to as the originating carrier, and Sea-Land Service, Inc., the West Indies carrier, provides for a through billing arrangement in the transportation of general cargo under through bills of lading from loading ports of the originating carrier in France, Italy, North Africa, Spain, and Portugal to ports of call of the West Indies carrier in Puerto Rico, with transshipment at Baltimore, Md., and New York, N.Y., in accordance with the terms and conditions specified therein.

Dated: October 22, 1964.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 64-10900; Filed, Oct. 26, 1964; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Project 2413]

GEORGIA POWER CO.

Order Fixing Hearing

OCTOBER 20, 1964.

Georgia Power Company (Applicant), of Atlanta, Georgia, on September 27, 1963, filed an application for preliminary permit for proposed Laurens Shoals Project No. 2413, to be located on the Oconee River a short distance below its confluence with Richland Creek and 24 miles upstream from the Company's Sinclair Dam and at the upper end of the reservoir formed by that dam, both being under Commission license for Project No. 1951. The proposed project would be in the Counties of Putnam, Morgan, Oconee, Oglethorpe, Greene and Hancock, in the State of Georgia and would affect lands of the United States within the Oconee National Forest.

In its application the Georgia Power Company states that it desires to study the feasibility of developing for hydroelectric purposes the Laurens Shoals site. The proposed project would inundate about 38,000 acres of land and would have a maximum gross head of about 115 feet. Preliminary studies by the Applicant indicates a plant of 150,000 kilowatt capacity may be feasible with a possible increase to a generating capacity of 400,000 kilowatts with the addition of pumped storage facilities.

The application seeks a preliminary permit for a period of 36 months under section 5 of the Federal Power Act. Such a permit, if granted, would give the permittee, during the period of the permit, the right of priority of application for license over other non-Federal Entities while the permittee undertakes the necessary studies and examinations required by section 9 of the Federal Power Act in order to determine the economic feasibility of the proposed project, the means of securing the necessary financial arrangements for construction, the market for power, and all other information necessary for inclusion in an application for license. The period of a preliminary permit may not exceed three years. The granting of such a permit does not authorize any construction.

The Office of the Chief of Engineers in its letter of March 6, 1964 stated that a comprehensive plan for developing the water resources of the Altamaha, Oconee and Ocumulgee Rivers, Georgia, was being prepared by the District Engineer, U.S. Army Engineer District, Savannah, Georgia. In this letter, it was further suggested that since this report would soon be available the Commission might wish to defer granting the permit applied

for by the Georgia Power Company. It is understood that the report is tentatively scheduled for submission to the Chief of Engineers in December of 1964.

The Department of the Interior by its letter of March 4, 1964, requested the Commission to defer action on the application for preliminary permit until the District and Division Engineers' reports of the Corps of Engineers have been completed, and until Congress has had an opportunity to act on the recommendation of the Chief of Engineers.

It is desirable that a public hearing be held to determine whether Georgia Power Company should be granted a preliminary permit under section 5 of the Federal Power Act while it conducts studies and investigations to determine the economic feasibility of its proposed project, or whether it should be denied a preliminary permit on the grounds that sufficient studies have already been made at public expense and available to Georgia Power Company to enable it to file an application for license. In this connection, it is also desirable to have evidence placed in the record regarding location and elevation of a proposed highway in the project area and the effect of such location and elevation and the proposed schedule of construction on the economic feasibility of the proposed highway and on the proposed project.

Although no formal petitions to intervene have been filed, numerous informal comments have been received for and against the granting of a preliminary permit to the Georgia Power Company. Any persons or agencies wishing to give statements of their position on this matter may appear at the commencement of the hearing and will be heard.

The Commission finds: It is appropriate and in the public interest to hold a public hearing respecting the matters involved and the issues presented.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly sections 5, 7, 10(a) and 308 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held on November 17, 1964, at Athens, Georgia, at 10 a.m., e.s.t., respecting matters involved in and the issues presented by the application for preliminary permit for Project No. 2413. The place of the hearing is to be fixed by further notice of the Secretary.

(B) Upon conclusion of the hearing the Presiding Examiner shall fix the schedule for the filing of briefs and shall certify the record to the Commission for the issuance of a tentative decision which will then be served upon all parties or their attorneys of record, who may then file exceptions in the manner and within the time provided for in § 1.31 of the Commission's rules of practice and procedure.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 64-10890; Filed, Oct. 26, 1964; 8:46 a.m.]

[Docket No. CP64-16]

UNITED FUEL GAS CO. AND KENTUCKY GAS TRANSMISSION CORP.

Notice of Application To Amend

OCTOBER 20, 1964.

Take notice that on September 21, 1964, United Fuel Gas Company (United) and Kentucky Gas Transmission Corporation (Kentucky), 1700 MacCorkle Avenue, SE., Charleston 25, West Virginia, referred to herein as Applicants filed in Docket No. CP64-16, separate applications to amend a joint order of the Commission issued January 21, 1964, in Docket No. CP64-16, authorizing among other things the installation and operation of additional compressor capacity by United, and the construction and operation of transmission facilities by Kentucky.

United requests that the ordering Paragraph (C) of the Commission's said order of January 21, 1964, be modified so as to extend the time for completion of the additional compressor capacity at its Ceredo and Lanham Compressor Station to not later than April 21, 1965, and Kentucky requests (1) modification of Paragraph (C) to extend the time for completion of 16 miles of 30-inch loop pipeline to a date not later than October 21, 1965 and (2) it be permitted to withdraw a request for cancellation of the certificate of public convenience and necessity authorizing the construction and operation of the said 16 miles of 30-inch pipeline, all as more fully set forth in the applications to amend filed with the Commission and open to public inspection.

United states it began construction at its Ceredo Station on September 8, 1964, proposed to begin construction at its Lanham Station about September 21, 1964, and therefore requests an additional six months in which to complete construction previously delayed.

Kentucky states The Cincinnati Gas and Electric Company (Cincinnati) and The Union Light, Heat and Power Company (Union Light) are now requesting additional service from Kentucky, and will need increased requirements to meet their needs, as a result of which the proposed facilities of Kentucky are again required to meet the combined requires of Cincinnati and Union Light, thus necessitating the withdrawal of its request that the previous request for cancellation of the certificate authorizing 16 miles of 30-inch pipeline. Kentucky requests additional time for the completion of its proposed facilities to allow desired flexibility in its construction schedule and, if possible, to obtain a lower bid therefor.

Protests, petitions to intervene or requests for hearing in this proceeding may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 13, 1964.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 64-10891; Filed, Oct. 26, 1964; 8:46 a.m.]

[Project 2485]

WESTERN MASSACHUSETTS ELECTRIC CO.

Notice of Application for Preliminary Permit

OCTOBER 20, 1964.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Western Massachusetts Electric Company (correspondence to: David R. Pokross, Counsel, 201 Devonshire Street, Boston 10, Massachusetts; copies of correspondence to: Howard J. Cadwell, Chairman of the Board, Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Massachusetts) for preliminary permit for proposed Project No. 2485, to be known as North Field Mountain Pumped Storage Project, to be located on the Connecticut River, in Franklin County, Massachusetts, about one mile north of Millers Falls.

The proposed project would consist of: (1) An artificial upper reservoir of about 14,000 acre-feet storage capacity located on North Field Mountain; (2) a penstock; (3) and underground powerhouse with a maximum capacity of 1,500,000 kilowatts in reversible pump-turbine generating units (minimum capacity under consideration is 450,000 kilowatts, using about 9,800 acre-feet upper reservoir capacity); (4) a tailrace tunnel and canal; (5) an access tunnel; and (6) the pond of Applicant's existing Turners Falls licensed Project No. 1889 serving as the lower reservoir.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is December 7, 1964. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 64-10892; Filed, Oct. 26, 1964; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 492]

NORTH CAROLINA

Declaration of Disaster Area

Whereas, it has been reported that during the month of October 1964, because of the effects of certain disasters, damage resulted to residences and business property located in Greene, Lenoir, and Wayne Counties in the State of North Carolina;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the

conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Executive Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the Offices below indicated from persons or firms whose property, situated in the aforesaid Counties and areas adjacent thereof, suffered damage or destruction resulting from floods and accompanying conditions occurring on or about October 9, 1964.

OFFICES

Small Business Administration Regional Office, 1904 Byrd Avenue, Richmond, Va., 23226.

Small Business Administration Branch Office, 201 South Tryon Street, Charlotte, N.C., 28202.

2. A temporary field office will be established in the Goldsboro-Kinston area, address to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1965.

Dated: October 14, 1964.

ROSS D. DAVIS,
Executive Administrator.

[F.R. Doc. 64-10879; Filed, Oct. 26, 1964; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 22, 1964.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 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. 39348: *T.O.F.C. Rates from and to points in southwestern territory.* Filed by Southwestern Freight Bureau, agent (No. B-8621), for interested rail carriers. Rates on property moving on class and commodity rates loaded in trailers and transported on railroad flatcars, between Columbus Junction and Manly, Iowa, on the one hand, and points in southwestern territory, on the other.

Grounds for relief: Carrier competition.

Tariff: Supplement 124 to Southwestern Freight Bureau, agent, tariff I.C.C. 4480.

FSA No. 39349: *Blackstrap molasses from points in Texas and Louisiana.* Filed by Southwestern Freight Bureau, agent (No. B-8625), for interested rail carriers. Rates on blackstrap molasses, in tank carloads, from points in Texas, also Lake Charles, La., to points in Arkansas, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, and South Dakota.

Grounds for relief: Market competition.

Tariff: Supplement 14 to Southwestern Freight Bureau, agent, tariff I.C.C. 4467.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 64-10903; Filed, Oct. 26, 1964; 8:47 a.m.]

CUMULATIVE CODIFICATION GUIDE—OCTOBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during October.

1 CFR

	Page
CFR Checklist	13517

3 CFR

	Page
PROCLAMATION:	
3619	13593
3620	13627
3621	13795
3622	14051
3623	14469
3624	14471
3625	14473
EXECUTIVE ORDERS:	
10530 (amended by EO 11184)	14155
11150 (revoked by EO 11182)	13629
11181	13557
11182	13629
11183	13633
11184	14155
11185	14399
11186	14617

4 CFR

	Page
51	14351

5 CFR

	Page
213	13517, 13595, 13797, 13943
1201	13869
1204	14024

7 CFR

	Page
7	14351
27	13797
33	13559
210	14619
215	14619
706	13885
722	14215, 14216
724	14099
728	13595, 13635, 14099, 14157, 14486
729	14100
751	13559
813	14217
814	14163
850	14620
855	13595, 14102
864	13637
871	13890
873	13565
905	13599-13601, 14353, 14354
908	13797
909	14219
910	13601, 14024, 14355, 14561
911	14431
915	14402
944	13602, 13603
948	14355
958	14523
982	14219
984	13603
989	14024
1001	13798
1064	13943
1106	13944
1421	13944, 14102, 14486, 14561
1427	13567
1485	13639
PROPOSED RULES:	
46	13535
723	14123, 14596
724	14234, 14596
815	14078
905	14367
906	14077
909	14077
911	14121
915	14121
947	14077
970	14408, 14543
982	14441
1033	13535
1034	13535
1040	14544
1042	14544
1061	13772, 14233
1063	14121
1064	13772, 14233
1070	14121
1071	14596
1073	14596
1074	14596
1078	14121
1079	14121
1103	14029
1104	13774, 14031
1105	14029
1106	13774
1131	14234
1132	14596

8 CFR

	Page
205	14431
206	14432
223	14432
243	14220
245	14432
252	14432, 14523
264	14220
280	14433
299	14433

9 CFR

	Page
71	14489
74	14053, 14356
78	13944, 14489
79	14489
80	14489
82	14489
83	14489

9 CFR—Continued

PROPOSED RULES:

9 ... 14499
74 ... 14078
155 ... 14441

10 CFR

20 ... 14434
30 ... 14401
40 ... 14401
50 ... 14401
70 ... 14401

PROPOSED RULES:

2 ... 14442

12 CFR

1 ... 13568–13570, 13798, 13869, 13927, 14221, 14435, 14561.
204 ... 13604, 14436
217 ... 13604

PROPOSED RULES:

6 ... 14177
206 ... 14079
335 ... 14126
545 ... 13834, 14411, 14412

13 CFR

107 ... 14221
109 ... 13518
121 ... 13571

PROPOSED RULES:

107 ... 14369

14 CFR

1 ... 14403, 14562
5 ... 14562
8 ... 14562
9 ... 14562
9a ... 14562
10 ... 14562
13 ... 14562
14 ... 14562
21 [New] ... 14563
31 [New] ... 14562
39 [New] ... 14404
71 [New] ... 13798, 13799, 14102–14105, 14166–14168, 14357, 14358, 14436, 14490, 14523, 14524, 14576, 14620, 14621.
73 [New] ... 13604, 14053, 14223
75 [New] ... 14169, 14223, 14358, 14436, 14621, 14622
91 [New] ... 13519, 14404, 14524, 14562
95 [New] ... 14064
97 [New] ... 13520, 14054, 14525, 14534
207 ... 14105
241 ... 13528, 14105
248 ... 13799
288 ... 14490
295 ... 14025
399 ... 14025
410 ... 14576
507 ... 13604, 14070, 14106, 14169, 14405, 14437, 14538, 14539, 14576.

PROPOSED RULES:

40 ... 14367
42 ... 14367
71 [New] ... 13610, 13611, 13828, 13829, 13904, 13905, 13974, 13975, 14078, 14186–14189, 14236, 14237, 14442, 14443, 14547, 14548, 14641, 14642.
73 [New] ... 13906, 13907, 14124, 14189, 14190.
75 [New] ... 14444
91 [New] ... 13907, 14034, 14079, 14368
151 [New] ... 13829
241 ... 14599

14 CFR—Continued

PROPOSED RULES—Continued

288 ... 13827
507 ... 13833, 13908, 13976, 14036, 14124, 14125, 14444.

15 CFR

367 ... 13570
370 ... 13643, 14577
371 ... 13643, 14577
372 ... 13646
373 ... 13647, 14577
376 ... 13649
377 ... 14577
379 ... 13650, 14577
380 ... 13651, 14578
381 ... 13651
384 ... 13651
385 ... 13652
399 ... 14578

16 CFR

13 ... 13571, 13572, 13655, 13799, 13800, 13892, 14026, 14070, 14071, 14170, 14437, 14491, 14492, 14622, 14623.
67 ... 13945

PROPOSED RULES:

21 ... 14413
214 ... 14036

17 CFR

PROPOSED RULES:

240 ... 13777

18 CFR

2 ... 14106
16 ... 14106

PROPOSED RULES:

12 ... 14643

19 CFR

6 ... 14492
10 ... 14493
17 ... 14171
22 ... 14493
23 ... 14493
31 ... 14493

PROPOSED RULES:

1 ... 14598
3 ... 14598
4 ... 14598

20 CFR

501 ... 13519

21 CFR

2 ... 14223
8 ... 13893
15 ... 14623
16 ... 14074
120 ... 13771
121 ... 13534, 13572, 13573, 13802, 13894, 13895, 14026, 14027, 14109, 14223, 14224, 14403, 14438, 14439, 14624, 14625
146 ... 13895
146a ... 14624

PROPOSED RULES:

19 ... 13973
27 ... 13535, 13536
31 ... 14126
45 ... 14367
121 ... 14367, 14641
146 ... 14032, 14380
148i ... 14380
148m ... 14380
148n ... 14380
148p ... 14380
148r ... 14380
148u ... 14032

25 CFR

43a ... 14359
52 ... 14359

26 CFR

1 ... 13896, 14628
175 ... 14361, 14439
201 ... 14361, 14628
250 ... 14364
251 ... 14364

PROPOSED RULES:

1 ... 13772, 14177, 14181, 14226, 14229, 14232, 14233, 14497, 14637.
31 ... 14637

28 CFR

0 ... 13950
16 ... 14027

29 CFR

511 ... 13802

PROPOSED RULES:

416 ... 14408
610 ... 13903
612 ... 13903
614 ... 13903
615 ... 13903

30 CFR

45 ... 14364

PROPOSED RULES:

14 ... 13822

31 CFR

203 ... 14224

32 CFR

10 ... 13951
56 ... 13802
137 ... 13803
733 ... 14579
Ch. VII ... 13656
803 ... 13803
815 ... 13951
826 ... 13805
827a ... 13965
828 ... 13805
829 ... 13965
830 ... 13805
831 ... 13806
832 ... 13807
842 ... 13807
845 ... 13869
846 ... 13871
850 ... 13872
870 ... 13873
881 ... 13873
886 ... 13968
905 ... 13883
906 ... 13883
920 ... 13885

32A CFR

OEP (Ch. I):

DMO V–5 ... 14594
DMO V–6 ... 14595
DMO 8550.1 ... 14594
DMO 8550.2 ... 14595

33 CFR

67 ... 14634
116 ... 14439
202 ... 13970
203 ... 13518, 13970
206 ... 14493
207 ... 13970

36 CFR

7 ... 14539
311 ... 14364

FEDERAL REGISTER

Area Code 202 Phone 963-3261

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

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