FEDERAL REGISTER

VOLUME 32 • NUMBER 69

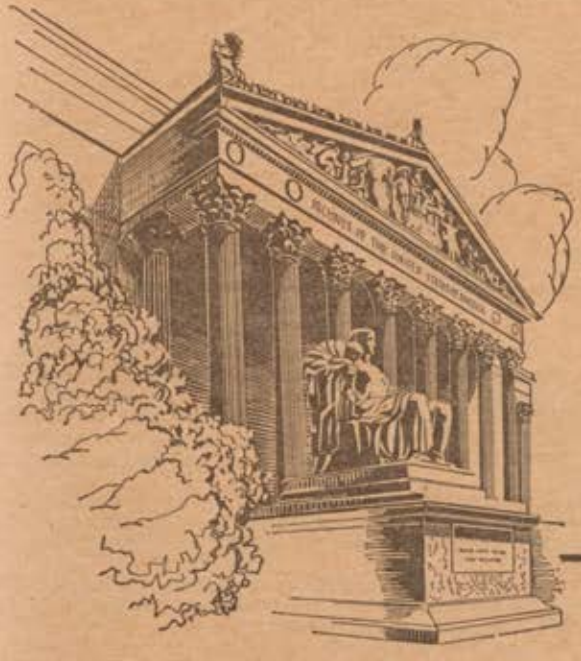
Tuesday, April 11, 1967 • Washington, D.C.

Pages 5757–5822

Agencies in this issue—

The President
Agricultural Research Service
Agricultural Stabilization and Conservation Service
Air Force Department
Automotive Agreement Adjustment Assistance Board
Civil Service Commission
Commodity Credit Corporation
Consumer and Marketing Service
Education Office
Federal Aviation Administration
Federal Aviation Agency
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Power Commission
Federal Reserve System
Fish and Wildlife Service
Food and Drug Administration
Geological Survey
Health, Education, and Welfare Department
International Commerce Bureau
Interstate Commerce Commission
Labor Department
National Park Service
Securities and Exchange Commission
Treasury Department
Wage and Hour Division

Detailed list of Contents appears inside.



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, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15 per year, payable in advance. The charge for individual copies varies in proportion to the size of the issue (15 cents for the first 80 pages and 5 cents for each additional group of 40 pages, as actually bound). Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements are listed in the first FEDERAL REGISTER issue of each month.

Contents

THE PRESIDENT

PROCLAMATION

Cancer Control Month, 1967 5763
Loyalty Day, 1967 5761

EXECUTIVE ORDER

Establishing the President's Commission on Postal Organization 5765

EXECUTIVE AGENCIES

AGRICULTURAL RESEARCH SERVICE

Proposed Rule Making

Foreign and domestic quarantine notices; postponement of public hearing concerning Unshu (Satsuma) oranges from Japan 5807

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Land use adjustment program; annual adjustment payments 5767

AGRICULTURE DEPARTMENT

See Agricultural Research Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Consumer and Marketing Service.

AIR FORCE DEPARTMENT

Rules and Regulations

Enlistment of nonprior service personnel in Ready Reserve unit programs 5778
Miscellaneous amendments to subchapter 5781

AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD

Notices

Borg-Warner Corp., Mechanics Universal Joint Division; petition for determination of eligibility to apply for adjustment assistance 5813

CIVIL SERVICE COMMISSION

Rules and Regulations

Justice Department; excepted service 5768
Pay administration; corrective action 5768

COMMERCE DEPARTMENT

See International Commerce Bureau.

COMMODITY CREDIT CORPORATION

Rules and Regulations

Dairy products; price support program for milk and butterfat 5767
Grains and similarly handled products; reseal loan program 5767

CONSUMER AND MARKETING SERVICE

Notices

Frozen concentrated orange juice in Florida; determination relative to proposed marketing agreement 5811
Green City Auction Co., Inc.; notice of complaint, order of suspension, and notice of hearing 5810

DEFENSE DEPARTMENT

See Air Force Department.

EDUCATION OFFICE

Notices

Public Law 81-815 applications; notice of second cutoff date for receipt 5813

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives; Ratier-Figeac Model FH 76-1 propellers 5771
Miscellaneous amendments to chapter 5770
Technical amendments to reflect transition to Department of Transportation 5769

Proposed Rule Making

Small airplane review; miscellaneous type certification standards 5791
Maximum allowable airspeed indicator; technical standard order 5788

FEDERAL AVIATION AGENCY

See also Federal Aviation Administration.

Rules and Regulations

Alterations:
Control zone 5768
Transition areas (2 documents) 5768
Control zone and transition area; designation 5769

Proposed Rule Making

Airworthiness directives; Tost Type Universal 53 glider tow couplings 5808

FEDERAL COMMUNICATIONS COMMISSION

Notices

Hearings, etc.:
Bell Telephone Company of Pennsylvania and Conestoga Telephone and Telegraph Co. 5814
Hennig, Norman W 5814
Northwest Broadcasters, Inc. (KBVU) and Bellevue Broadcasters (KFKF) 5814
Susquehanna Broadcasting Co., and H. C. Ostertag Cable TV Co 5817
Susquehanna Broadcasting Co., et al 5815

FEDERAL DEPOSIT INSURANCE CORPORATION

Notices

Arlington Trust Co.; application for exemption 5817

FEDERAL POWER COMMISSION

Rules and Regulations

Practice and procedure; official notice of facts 5771

Notices

Hearings, etc.:
K. R. and T. Gas Co., and Cities Service Gas Co 5817
Panhandle Eastern Pipe Line Co 5817
Pennsylvania Gas Co 5818

FEDERAL RESERVE SYSTEM

Notices

State Bank of Albany; order approving merger of banks 5818

FISH AND WILDLIFE SERVICE

Rules and Regulations

Patuxent Wildlife Research Center, Md.; sport fishing and hunting 5787

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Drugs; sodium cephalothin 5774
Food additives:
Ethyl maltol; 2-ethyl-3-hydroxy-4H-pyran-4-one 5773
Oxidized polyethylene 5773
2,4-D 5772

Notices

Petitions filed regarding food additives:
Masonite Corp 5812
Pfizer, Chas. & Co., Inc 5812

GEOLOGICAL SURVEY

Notices

Executive Officer et al.; delegation of authority 5810

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Food and Drug Administration.

Notices

Hospital and medical care and treatment; recovery of cost; delegations of authority 5813

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Geological Survey; National Park Service.

(Continued on next page)

INTERNATIONAL COMMERCE BUREAU

Notices

Schweisstechnik G.m.b.H.; order denying export privileges for an indefinite period 5811

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief (2 documents) 5819
Motor carrier transfer proceedings 5819

LABOR DEPARTMENT

See also Wage and Hour Division.

Rules and Regulations

Labor standards for Federal service contracts; exemption for certain Post Office contracts with common carriers 5775

NATIONAL PARK SERVICE

Rules and Regulations

Catoctin Mountain Park; special regulations 5771

SECURITIES AND EXCHANGE COMMISSION

Proposed Rule Making

Fees for fiscal 1967 for brokers and dealers not members of National Securities Association 5808

Notices

Michigan Consolidated Gas Co., and American Natural Gas Co.; proposed issue and sale of bonds and stock 5818

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

Notices

Executive Assistant to the Special Assistant (for Enforcement); designation to serve as Acting Director, Office of Law Enforcement Coordination 5810
Functions of Office of the Secretary; transfer to Bureau of Narcotics 5810

WAGE AND HOUR DIVISION

Rules and Regulations

Industries of a seasonal nature and industries with marked seasonal peaks of operation 5775

Proposed Rule Making

Sugar cane processing and milling in Florida; operations on perishable agricultural commodities 5788

List of CFR Parts Affected

(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, 1967, and specifies how they are affected.

3 CFR

PROCLAMATION:
3775 5761
3776 5763
EXECUTIVE ORDER:
11341 5765

5 CFR

213 5768
550 5768

7 CFR

751 5767
1421 5767
1430 5767
PROPOSED RULES:
301 5807
319 5807

14 CFR

Ch. I 5769
11 5770
39 5771
61 5770
65 5770
71 (4 documents) 5768, 5769
141 5770
147 5770
PROPOSED RULES:
23 5791
37 5788
39 5808

17 CFR

PROPOSED RULES:
240 5808
249 5808

18 CFR

1 5771

21 CFR

120 5772
121 (3 documents) 5772, 5773
148w 5774

29 CFR

4 5775
526 5775
PROPOSED RULES:
526 5788

32 CFR

888a 5778
1001 5781
1002 5782
1003 5782
1004 5786
1006 5787
1007 5787
1053 5787
1055 5787

36 CFR

7 5771

50 CFR

60 5787

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3775

LOYALTY DAY, 1967

By the President of the United States of America

A Proclamation

May 1st, in some parts of the world, is marked by demonstrations in support of totalitarian party dictatorships. Since 1959, we in the United States have celebrated it as "Loyalty Day," a time when we are asked to recall the ideals which have nourished our free society.

The contrast between these two types of celebration is striking. We are not demanding unthinking fealty to a party or a doctrine. On the contrary, allegiance to American ideals demands commitment to a ceaseless search for new routes to freedom, justice and equality.

Our flag then is not just a symbol of our nationhood. It signifies more:

—A profound dedication to a community where the rights of minorities are respected as fully as the rights of the majority, where freedom and order are found in harmonious equilibrium.

The patriot leader John Adams thus felt obliged to defend the British officer accused of instigating the "Boston Massacre." And later noted in his diary that it was his proudest contribution to the tradition of freedom.

Similarly, Abraham Lincoln in 1838 called on "every American, every lover of liberty" to swear "never to violate the laws of the country" or to "tolerate their violation by others" through "mob law."

To an American, then, loyalty is not automatic acceptance of authority but consecration to the principles of a free society.

It imposes restraints on the majority and on minorities alike. The majority must have the right to act, but its actions must follow the course of due process.

Minorities must retain the right to dissent, but should never confuse the right to be heard with the right to determine policy, should never assert the undemocratic and arrogant claim to speak for the society as a whole.

In 1967, Loyalty Day has a special meaning. Far away in Vietnam, our young men are demonstrating by their bravery, and commitment to the freedom of others, the ultimate obligations loyalty can impose.

Loyalty Day 1967 thus becomes an opportunity for the vast majority in America—while respecting the right of dissent—to affirm their conviction that freedom is indivisible, their realization that the cruel burden of war must be carried, and their heartfelt gratitude to those who are risking their lives in harsh witness to our ideals.

If we are to be worthy of their sacrifice, it is vital that we demonstrate our active loyalty to the cause for which they fight. The badge of American loyalty should be more than a uniform.

Enlightened loyalty requires that each citizen take the trouble to learn about, to discuss, to think through, the crucial issues of our time.

Enlightened loyalty demands a commitment by the citizen to the daily life of his society. He must constantly strive to bring American practice into accord with American precepts.

Enlightened loyalty obligates every individual to act and speak in behalf of his beliefs, so the world will not mistake the clamor of dissenting activists for the true voice of the nation.

In recognition of these precepts, the Congress by a joint resolution of July 18, 1958 (72 Stat. 369), designated May 1 of each year as Loyalty Day and requested the President to issue a proclamation inviting the people of the United States to observe each such day with appropriate ceremonies.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do call upon the people of the United States, and upon all patriotic, civic, and educational organizations, to observe Monday, May 1, 1967, as Loyalty Day, with appropriate ceremonies in which all of us may join in a reaffirmation of our loyalty to the United States of America.

I also call upon appropriate officials of the Government to display the flag of the United States on all Government buildings on that day as a manifestation of our loyalty to the Nation which that flag symbolizes.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this sixth day of April in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-first.

Lyndon B. Johnson

By the President:

Dean Rusk

Secretary of State.

[F.R. Doc. 67-3988; Filed, Apr. 7, 1967; 2:16 p.m.]

Proclamation 3776

CANCER CONTROL MONTH, 1967

By the President of the United States of America

A Proclamation

Ours is an age of unprecedented progress in the field of medical research. Yet cancer continues to plague our people.

Every minute-and-three-quarters, a man, woman or child in America is struck by one of its many forms. In this year alone, more than 300,000 Americans will die of it.

We have taken giant steps toward defeating it: today more people are being cured of cancer than ever before, and our understanding of its causes and characteristics is growing constantly.

But the incidence of cancer is still increasing more rapidly than our progress in curing it. We must intensify our research efforts, and we are:

—The National Cancer Institute of the United States Public Health Service, with a budget of more than $170 million this year, is striving to discover new facts about the causes and cures of cancer.

—Regional medical programs, under the Heart Disease, Cancer and Stroke Amendments of 1965, will bring the latest advances in diagnosis and treatment to people throughout the Nation.

—Medicare and other programs are helping to assure Americans of the care they need in the fight against cancer and other diseases.

—I have recently directed the Secretary of Health, Education, and Welfare to appoint a lung cancer task force, to supplement the work of task forces on leukemia, cancer chemotherapy, uterine cancer, solid tumor and breast cancer.

These efforts to combat cancer require the continuing cooperation of scientists, physicians, health agencies, and the public.

To impress upon our people the necessity for such cooperation, the Congress by a joint resolution of March 28, 1938 (52 Stat. 148), requested the President to issue annually a proclamation setting aside the month of April as Cancer Control Month.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby proclaim the month of April 1967 as Cancer Control Month; and I invite the Governors of the States, the Commonwealth of Puerto Rico, and other areas subject to the jurisdiction of the United States to issue similar proclamations.

I also ask the medical and allied health professions, the communication industries, and all other interested persons and groups to unite during the appointed month in public reaffirmation of this Nation's efforts to control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this seventh day of April in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-first.

Lyndon B. Johnson

By the President:

Nicholas deB. Katzenbach

Acting Secretary of State.

[F.R. Doc. 67-4016; Filed, Apr. 10, 1967; 10:30 a.m.]

Executive Order 11341

ESTABLISHING THE PRESIDENT'S COMMISSION ON POSTAL ORGANIZATION

By virtue of the authority vested in me as President of the United States it is ordered as follows:

SECTION 1. *Establishment of the Commission.* (a) There is hereby established the President's Commission on Postal Organization (hereafter referred to as the "Commission").

(b) The Commission shall be composed of not more than ten members appointed by the President from among persons who are not full-time officers or employees of the Federal Government. The members, one of whom shall be designated by the President as Chairman, shall serve at the pleasure of the President.

SEC. 2. *Functions of the Commission.* (a) The Commission shall study the organization and structure of the postal service of the United States, and shall determine and report upon the feasibility and desirability of a transfer of the postal service from the Post Office Department to a Government corporation, or such other form of organization as the Commission may consider desirable. In carrying out this responsibility, the Commission shall consider, among such other factors as it deems relevant, the need for:

(1) Improving the organization, management and efficiency of the postal service to meet the growing burdens placed on the service and to be fully responsive to the public interest;

(2) Maintaining fair and reasonable postal rates, and a proper balance among the interests of different classes of users;

(3) Maintaining a fair and reasonable structure of compensation for postal officers and employees, together with other personnel policies and practices designed to increase their productivity;

(4) providing adequate, timely and economical financing for the costs of operations, plant and equipment and research and development;

(5) modernizing the facilities, equipment and mail handling techniques of the postal service;

(6) attaining such other characteristics and capabilities as the Commission may determine to be necessary for a superior postal service.

(b) If the Commission concludes that the transfer of the postal service to a Government corporation or other form of organization would not be feasible or desirable, it shall so report, stating its reasons and making recommendations for the improvement of the organization, methods and operations of the Post Office Department. If it concludes that such a transfer would be both feasible and desirable, it shall so report, stating its reasons, and shall make specific recommendations with respect to:

(1) the nature, powers and functions of the corporation or other form of organization and its relationship to the President, the Congress and the public;

(2) the composition and method of appointment of its top management;

(3) the policies to be followed in the employment and retention of personnel;

(4) methods of setting postal rates;

(5) methods of determining the compensation and other benefits of officers and employees;

(6) policies to be followed in dealing with representatives of employees;

(7) procurement of transportation for the mails;

(8) financing; and

(9) such other matters as are, in the judgment of the Commission, pertinent to the efficient functioning of the postal service.

SEC. 3. *Cooperation by Executive Departments and Agencies.* The Commission is authorized to request and accept from any executive department or agency any information and assistance deemed necessary to carry out its functions under this order. Each department or agency is authorized, to the extent permitted by law and within the limits of available funds, to furnish information and assistance to the Commission.

SEC. 4. *Compensation and Personnel.* (a) Members of the Commission shall receive such compensation as may hereafter be specified when engaged in the performance of duties pursuant to this order, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons intermittently employed.

(b) The Commission shall have an Executive Director who shall be designated by the President and shall receive such compensation as may hereafter be specified. The functions and duties of the Executive Director shall be prescribed by the Commission. The Commission is authorized to appoint and fix the compensation of such other personnel as may be necessary to enable it to carry out its functions and is authorized to obtain services in accordance with the provisions of 5 U.S.C. 3109.

SEC. 5. *Reports to the President and Termination.* The Commission shall present its final report and recommendations not later than one year from the date of this order. The Commission shall terminate upon presentation of such report and recommendations, or upon such other date as the President may determine.

Lyndon B. Johnson

THE WHITE HOUSE,
April 8, 1967.

[F.R. Doc. 67-4043; Filed, Apr. 10, 1967; 12:01 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 6]

PART 751—LAND USE ADJUSTMENT PROGRAM

Subpart—Cropland Adjustment Program for 1966 Through 1969

ANNUAL ADJUSTMENT PAYMENTS

The regulations governing the 1966–69 Cropland Adjustment Program (31 F.R. 3483) are amended as follows:

Section 751.115 is amended by adding a new subparagraph (f) to read as follows:

§ 751.115 **Annual adjustment payments.**

* * * * *

(f) With respect to agreements approved after the effective date of this regulation, where an adjustment payment has been established on the basis of a diversion from irrigated crops and the producer (1) uses any part of the irrigation water customarily used on such irrigated crops for crops other than conserving crops or fruits or vegetables on the farm or on another farm, or (2) sells or leases such water to another producer, the diversion will be deemed to have been made from nonirrigated crops and the adjustment payment for such year shall be adjusted to reflect a diversion from nonirrigated crops.

(Sec. 602(q), 70 Stat. 1210)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on April 4, 1967.

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

[F.R. Doc. 67-3920; Filed, Apr. 10, 1967; 8:47 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Resale Loan Regs., 1965 and Subsequent Storage Periods; Amdt. 4]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—Reseal Loan Program

ELIGIBILITY REQUIREMENTS

The regulations issued by CCC and published in 30 F.R. 2852 are hereby amended as follows:

Section 1421.3483 (c) and (d) are amended to eliminate the reference to the application for price support and correct language as to type of draft used for disbursing loans for resale. The amended paragraphs will now read:

§ 1421.3483 **Eligibility requirements.**

* * * * *

(c) *New loans.* A producer who has a farm-stored commodity eligible for price support must place such commodity under loan in order for it to be eligible for reseal. Loans for reseal purposes shall be made no later than 2 calendar months after the original maturity date for a loan on the commodity unless a later date is authorized by the State committee.

(d) *Disbursement of loans.* Disbursement of a new loan referred to in paragraph (c) of this section will be made to a producer by ASCS county offices by means of a draft drawn on CCC or by credit to the producer's account. The producer shall not present the loan documents for disbursement unless the commodity covered by the mortgage is in existence. If the commodity was not in existence at the time of disbursement, the total amount disbursed under the loan shall be refunded promptly by the producer.

Effective date. Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on April 4, 1967.

H. D. GODFREY,
Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 67-3921; Filed, Apr. 10, 1967; 8:47 a.m.]

PART 1430—DAIRY PRODUCTS

Subpart—Milk and Butterfat Price Support Program

The U.S. Department of Agriculture has announced a price support program for milk and butterfat for the marketing year April 1, 1967, through March 31, 1968, through purchases by Commodity Credit Corporation (CCC) of dairy products as provided herein:

§ 1430.281 **Price support program for milk and butterfat.**

(a) (1) The general levels of prices to producers for milk and butterfat will be supported from April 1, 1967, through March 31, 1968, at $4 per hundredweight for manufacturing milk and 68 cents per pound for butterfat.

(2) Price support for milk and butterfat will be through purchases by CCC of butter, nonfat dry milk, and cheddar cheese, offered subject to the terms and conditions of purchase announcements issued by the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(3) Commodity Credit Corporation may, by special announcements, offer to purchase other dairy products to support the price of milk and butterfat.

(4) Purchase announcements setting forth terms and conditions of purchase may be obtained upon request from:

U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service, Procurement and Sales Division, Washington, D.C. 20250,

or

U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service, ASCS Commodity Office, 6400 France Avenue South, Minneapolis, Minn. 55435.

(b) (1) CCC will consider offers of butter, cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements, at the following prices:

Commodity and location	*Price per pound*
Butter:	
U.S. Grade A or higher:	
New York, N.Y., Jersey City and Newark, N.J.	$0.6725
Seattle, Wash., and San Francisco, Calif., Alaska, Hawaii, California	.6650
Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina	.6625
U.S. Grade B, 2 cents less than U.S. Grade A.	
Cheddar Cheese (standard moisture basis, 37.8–39) [1]	.4375
Nonfat Dry Milk, Spray Process: Bags with sealed closures [2]	.1960

[1] For cheese which is offered on a "dry" basis (less than 37.8 percent moisture) the price per pound shall be as indicated in Form ASCS–150. Copies are available in offices listed in a–4 above.

[2] If upon inspection the bags do not fully comply with specifications for sealed closures, the price paid will be subject to discount of two-tenths (0.2) of a cent per pound.

(2) Offers to sell butter at any location not specifically provided for in this section will be considered at the price set forth in this section for the designated market (New York, San Francisco, or Seattle) named by the seller, less 80 percent of the lowest published railroad carlot freight rate per pound gross weight in effect when the offer is accepted from such location to such designated market. In the area consisting of Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine, CCC will purchase only butter produced in that area; butter produced in other areas is ineligible for offering to CCC in these States.

(c) The butter shall be U.S. Grade B or higher. The nonfat dry milk shall be U.S. Extra Grade, except moisture content shall not exceed 3.5 percent. The cheddar cheese shall be U.S. Grade A.

(d) The products shall be manufactured in the United States from milk produced in the United States, and shall be located in the United States and shall not have been previously owned by CCC. Purchases will be made in carlot weights specified in the announcements. Grades and weights shall be evidenced by inspection certificates issued by the U.S. Department of Agriculture.

(Sec. 4(d), 62 Stat. 1070, as amended; 15 U.S.C. 714b(d))

Signed at Washington, D.C. on April 4, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-3922; Filed, Apr. 10, 1967; 8:47 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that the position of Deputy Director, Office of Alien Property, is no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (i) of § 213.3310 is revoked.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[F.R. Doc. 67-3896; Filed, Apr. 10, 1967; 8:45 a.m.]

PART 550—PAY ADMINISTRATION (GENERAL)

Corrective Action

Section 550.804 is amended to prohibit an agency from withholding back pay on the basis that an employee who was restored within a 1-year period following his erroneous separation did not seek other employment during that period. A new subparagraph (f) is added to § 550.804 as set out below.

§ 550.804 Corrective action.

* * * * *

(f) In computing the amount of back pay due an employee under this section and section 3 of the act, if the employee has been restored within one year after his erroneous separation, the department may not delete any period from computation on the basis that the employee was under obligation to make an effort to secure other employment during the period covered by the unjustified or unwarranted personnel action.

(Sec. 4 of P.L. 89-380)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[F.R. Doc. 67-3934; Filed, Apr. 10, 1967; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 67-EA-41]

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

Alteration of Control Zone

On January 31, 1967, F.R. Doc. 67-1070 was published in the FEDERAL REGISTER (32 F.R. 1086) which amended the Manchester, N.H., control zone to reduce the period of control from 24 hours daily to 16 hours daily. This amendment will become effective April 1, 1967.

Since the publication of this action, it has been brought to the attention of the Administrator by the State Aeronautics Commission of New Hampshire, civil users and the community that 24-hour operation of the control zone should be continued for an additional 30-day period to permit a revaluation of the terminal airspace requirements for Manchester, N.H. In view of the fact that the prime users of the aforementioned airspace are the petitioners for revaluation, it is found in the public interest that the control zone should be continued for a 30-day period.

For the reasons stated above, the Administrator finds that a situation exists requiring immediate action in the public interest, therefore notice and public procedure therein are contrary to said public interest and good cause exists for making this alteration effective immediately.

In consideration of the foregoing, F.R. Doc. 67-1070 is amended, effective immediately as hereinafter set forth.

In numbered paragraph 2, of the text, the date "April 1, 1967," is deleted and "May 1, 1967," is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on March 31, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-3900; Filed, Apr. 10, 1967; 8:45 a.m.]

[Airspace Docket No. 67-SW-3]

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

Alteration of Transition Area

On February 7, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 2578) stating that the Federal Aviation Agency proposed to alter the Cotulla, Tex., transition 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 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., June 22, 1967, as herein set forth.

In § 71.181 (32 F.R. 2173) the Cotulla, Tex., transition area is amended to read:

COTULLA, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cotulla Municipal Airport (latitude 28°27'15" N., longitude 99°13'05" W.) and within 8 miles north and 5 miles south of the Cotulla VOR 085° and 265° radials, extending to 5 miles west and 12 miles east of the VOR; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 28°52'00" N., longitude 99°25'00" W., to latitude 28°54'00" N., longitude 99°05'00" W., to latitude 28°19'00" N., longitude 98°37'00" W., to latitude 28°05'00" N., longitude 98°48'00" W., to latitude 28°06'00" N., longitude 99°08'00" W., to latitude 28°08'20" N., longitude 99°18'20" W., to latitude 28°32'00" N., longitude 99°28'00" W., to point of beginning; and that airspace extending upward from 3,000 feet MSL bounded by a line beginning at latitude 28°54'00" N., longitude 99°05'00" W., to latitude 28°43'30" N., longitude 98°17'30" W., to latitude 28°34'00" N., longitude 98°23'00" W., to latitude 28°27'00" N., longitude 98°14'00" W., to latitude 28°07'00" N., longitude 98°27'00" W., to latitude 28°05'00" N., longitude 98°48'00" W., to latitude 28°19'00" N., longitude 98°37'00" 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 March 31, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-3901; Filed, Apr. 10, 1967; 8:45 a.m.]

[Airspace Docket No. 67-SW-4]

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

Alteration of Transition Area

On February 7, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 2578) stating that the Federal Aviation Agency proposed to alter the Houma, La., transition 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 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., June 22, 1967, as hereinafter set forth.

In § 71.181 (32 F.R. 2200) the Houma, La., transition area is amended to read:

HOUMA, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Houma Municipal Airport (latitude 29°34'10" N., longitude 90°39'40" W.) and within 2 miles each side of the Tibby VORTAC 123° radial, extending from the VORTAC to 27 miles southeast of the VORTAC.

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

Issued in Fort Worth, Tex., on March 31, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-3902; Filed, Apr. 10, 1967; 8:45 a.m.]

[Airspace Docket No. 66-EA-89]

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

Designation of Control Zone and Transition Area

On page 2383 of the FEDERAL REGISTER for February 3, 1967, the Federal Aviation Agency published proposed regulations which would alter the Dow Air Force Base, Bangor, Maine, control zone and transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001, e.s.t., May 25, 1967.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on March 23, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Bangor, Maine control zone in its entirety and substitute the following:

BANGOR, MAINE

Within a 5 mile radius of the center (44°48'20" N., 68°49'32" W.) of Dow AFB, Bangor, Maine excluding the portion within a 1-mile radius of the center (44°49'15" N., 68°43'00" W.) of the Down East Seaplane Base, Brewer, Maine; within 2 miles each side of the Bangor VORTAC 318° radial, extending from the 5-mile radius zone to 7 miles NW of the VORTAC; within 2 miles each side of the extended centerline of Runway 33 extending from the 5-mile radius zone to 4.5 miles NW of the lift-off end of the runway; within 2 miles each side of the Bangor VORTAC 135° radial, extending from the 5-mile radius zone to 12 miles SE of the VORTAC; within 2 miles each side of the Bangor ILS localizer SE course extending from the 5-mile radius zone to 8 miles SE of the OM; and within 2 miles each side of the Bangor VORTAC 053° radial extending from the VORTAC to the Old Town, Maine control zone.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Bangor, Maine 700-foot floor transition area in its entirety and substitute the following:

BANGOR, MAINE

That airspace extending upward from 700 feet above the surface within a 7-mile radius arc of the center (44°48'20" N., 68°49'32" W.), of the Dow AFB, Bangor, Maine, extending clockwise from 245° to 093°; within a 12-mile radius arc of Dow AFB extending clockwise from 093° to 245°; within 2 miles each side of the Bangor VORTAC 318° radial extending from the VORTAC to 12 miles NW of the VORTAC; within 5 miles E and 8 miles W of the Bangor ILS localizer SE course extending from the OM to 12 miles SE of the OM; within a 4-mile radius area of the center (44°57'10" N., 68°40'15" W.), of Old Town Municipal Airport, Old Town, Maine, and within 2 miles each side of the Bangor VORTAC 053° radial extending from the Old Town Municipal Airport 4-mile radius area to the VORTAC.

[F.R. Doc. 67-3903; Filed, Apr. 10, 1967; 8:45 a.m.]

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 8084]

TECHNICAL AMENDMENTS TO REFLECT TRANSITION TO DEPARTMENT OF TRANSPORTATION

The purpose of these amendments is to make changes in the Federal Aviation Regulations that are necessary because of the taking effect of the Department of Transportation Act (49 U.S.C. 1651 et seq.) on April 1, 1967. On April 1, 1967, the Federal Aviation Agency became the Federal Aviation Administration in the Department of Transportation, and the aviation safety functions of the Civil Aeronautics Board under Titles VI and VII of the Federal Aviation Act of 1958 were transferred to the National Transportation Safety Board.

This rule-making action therefore changes the term "Federal Aviation Agency," wherever it occurs in the Federal Aviation Regulations, to "Federal Aviation Administration," and the word "Agency" when used alone to denote the Federal Aviation Agency to "FAA." For reasons of economy the editions of these regulations that are currently for sale will not be reprinted merely to make these changes. Whenever they are reprinted for other reasons, the printing changes will be made. However, the pages of Part 1 reflecting the changes in definition of the term "Administrator" and the abbreviation "FAA" will be reprinted as soon as possible.

The changes made in the parts containing references to the Civil Aeronautics Board that are affected by the transfer of functions to the National Transportation Safety Board are self-explanatory. Pages containing these changes will also be reprinted as soon as possible.

Notice and public procedure thereon are not required since these amendments merely reflect changes of law, and they may therefore be made effective immediately.

(Secs. 3(e), 6(c), 9(f), Department of Transportation Act (15 U.S.C. 1652(e), 1655(c), 1657(f)); sec. 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1354(a))

In consideration of the foregoing, the Federal Aviation Regulations (14 CFR Chapter I) are amended, effective April 1, 1967, as set forth below.

Issued in Washington, D.C., on April 4, 1967.

D. D. THOMAS,
Acting Administrator.

1. The words "Federal Aviation Agency" are deleted wherever they occur in Chapter I of Title 14, Code of Federal Regulations and the words "Federal Aviation Administration" are inserted in place thereof.

2. The word "Agency" is deleted wherever it occurs in Chapter I of Title 14, Code of Federal Regulations to denote the "Federal Aviation Agency," and the designation "FAA" is inserted in place thereof.

3. Part 1 is amended as follows:

a. The definition of "Administrator" in § 1.1 is amended to read as follows:

"Administrator" means the Federal Aviation Administrator or any person to whom he has delegated his authority in the matter concerned.

b. The definition of "FAA" in § 1.2 is amended to read as follows:

"FAA" means Federal Aviation Administration.

4. Section 11.35 is amended as follows:

a. Paragraph (a) is amended by inserting the words "National Transportation Safety" before the word "Board" at the end of the paragraph.

b. Paragraph (b) is amended by inserting the words "Civil Aeronautics" before the word "Board" wherever it occurs.

5. Sections 13.19(d), 13.59(a), 13.67(c), 21.49, 61.3(e), 61.39(f), 61.41(b), 61.83(a), 61.113(a)(1), 63.3(c), 65.45(a), 65.51(b), 65.89, 65.95(b), 65.105, 65.111(c), 91.173(c)(3), 121.343(c), 121.545(b), 121.547 (a)(2) and (c)(1), 127.19, 127.209(b), 127.211 (a)(2) and (c)(1), and 143.21 are each amended by deleting the words "Civil Aeronautics Board" and inserting the words "National Transportation Safety Board" in place thereof.

6. Part 103 is amended as follows:

a. The introductory paragraph of § 103.1(b) is amended to read as follows:

§ 103.1 Applicability.

* * * * *

(b) For the purposes of this part "dangerous articles" are those articles defined and regulated in 49 CFR Parts 72 through 78, and includes:

* * * * *

b. Section 103.1(c)(3) is amended by striking out the words "of Parts 72 and 73 of the ICC Regulations" and inserting the words "in 49 CFR Parts 72 and 73" in place thereof.

c. The first sentence of § 103.3(b) is amended by striking out the words "the ICC" and inserting the word "that" in place thereof.

d. Section 103.5(a)(9) is amended by striking out the words "of the ICC" and inserting the words "in 49 CFR Parts 72 through 78" in place thereof.

e. Sections 103.7(a) and 103.11 are each amended by striking out the words "Parts 72, 73, and 78 of the ICC Regulations (49 CFR Parts 72, 73, and 78)" and inserting the words "49 CFR Parts 72, 73, and 78" in place thereof.

f. Paragraphs (b), (d), (e), and (f) of § 103.7 are each amended by striking out the words "of Parts 72 and 73 of the ICC Regulations (49 CFR Parts 72 and 73)", wherever they appear, and inserting the words "in 49 CFR Parts 72 and 73" in place thereof.

g. Section 103.7(c) is amended by striking out the words "ICC approved cylinders and at pressures not greater than the pressure allowed by ICC Regulations" and inserting the words "cylinders approved under, and at pressures not greater than the pressure allowed by, 49 CFR Parts 72 through 78" in place thereof.

h. Sections 103.9(a)(1), 103.13, and 103.21 are each amended by striking out the words "ICC Regulations", wherever they appear, and inserting the words "49 CFR Parts 72 through 78" in place thereof.

i. Section 103.9(a)(1) is amended by striking out the words "of Part 72 of the ICC Regulations (49 CFR Part 72)" and inserting the words "49 CFR Part 72" in place thereof.

j. Section 103.13 is amended by striking out the words "ICC labeling requirement because of ICC" and inserting the words "those labeling requirements because of" in place thereof.

7. Part 121 is amended as follows:

a. Section 121.359(e) is amended to read as follows:

§ 121.359 Cockpit voice recorders.

* * * * *

(e) In the event of an accident or occurrence requiring immediate notification of the National Transportation Safety Board under Part ____ of its regulations (present Part 320 of this title), the certificate holder shall keep the recorded information for at least 60 days or, if requested by the Administrator or the Board, for a longer period. Information obtained from the record is used to assist in determining the cause of accidents or occurrences in connection with investigations under Part ____ (present Part 320 of this title). The Administrator does not use the record in any civil penalty or certificate action.

b. Section 121.703(f) is amended to read as follows:

§ 121.703 Mechanical reliability reports.

* * * * *

(f) Failures, malfunctions, or defects reported under the accident reporting provisions of Part ____ of the regulations of the National Transportation Safety Board (present Part 320 of this title) need not be reported under this section.

8. Section 127.313(f) is amended to read as follows:

§ 127.313 Mechanical reliability reports.

* * * * *

(f) Failures, malfunctions, or defects reported under the accident reporting provisions of Part ____ of the regulations of the National Transportation Safety Board (present Part 320 of this title) need not be reported under this section.

9. Paragraph (b)(4)(i) of Appendix B of Part 141 is amended to read as follows:

APPENDIX B—FLIGHT TRAINING—COMMERCIAL FLYING SCHOOL

* * * * *

(b) Phase II—*Navigational and critical situations.* * * *

(4) * * *

(i) Principles and safe flying practices for preflight preparations, operations within airplane's operational limitations, use of FAA facilities and compliance with Part 91 of this chapter and Part ____ of the regulations of the National Transportation Safety Board (present Part 320 of this title) "Notification and Reporting of Aircraft Accidents and Overdue Aircraft", which is on sale at the Government Printing Office for 5 cents).

* * * * *

10. Section 185.17 is amended by inserting a comma and the words "National Transportation Safety Board," after the words "Civil Aeronautics Board".

[F.R. Doc. 67-3916; Filed, Apr. 10, 1967; 8:46 a.m.]

[Docket No. 8085; Amdt. Nos. 11-7, 61-30, 65-10, 141-4, 147-1]

MISCELLANEOUS AMENDMENTS TO CHAPTER

These amendments update certain cross references in the Federal Aviation Regulations and make other miscellaneous corrections.

At the time of the recodification, it was necessary to include in the Federal Aviation Regulations cross references to the Civil Air Regulations or Special Civil Air Regulations where the referenced provision had not yet been recodified. These amendments update those cross references not previously updated. No substantive change is involved in these amendments. In some instances, the cross references as updated herein have been anticipated in compilations and reprints of the respective parts of the regulations.

In addition, the term "Federal Air Surgeon" is substituted for the term "Civil Air Surgeon" in § 11.55 to correctly state the title of that official.

Since this amendment does not involve any substantive change and does not impose a burden on any person, notice and public procedure thereon are unnecessary, and the amendment may be made effective immediately.

In consideration of the foregoing, Chapter I of Title 14 is amended, effective April 10, 1967, as follows:

PART 11—GENERAL RULE-MAKING PROCEDURES

§ 11.55 [Amended]

1. Section 11.55 is amended by striking out the words "Civil Air Surgeon" wherever they occur and inserting the words "Federal Air Surgeon" in place thereof.

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

2. Section 61.143(a) is amended to read as follows:

§ 61.143 Airplane rating; Aeronautical knowledge.

* * * * *

(a) The sections of this part relating to airline transport pilots and Part 121, Subpart C of Part 65, and §§ 91.1 through 91.9 and Subpart B of Part 91 of this chapter, and so much of Parts 21 and 25 of this chapter as relate to the operations of air carrier aircraft;

* * * * *

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

3. Part 65 is amended as follows:

§§ 65.85, 65.87 [Amended]

a. Sections 65.85 and 65.87 are amended by striking out the words "Part ____ of this chapter [Present Part 43]" wherever they occur and inserting the words "Part 91 of this chapter" in place thereof.

b. Paragraph (b) of Appendix A is amended by striking out the words "Civil Air Regulations ____ 15" and "Parts ____, ____, ____, ____, ____, ____, and ____ of this chapter [Present Parts 4b, 40, 41, 42, 43, 49, and 60]." and inserting the words "Federal Aviation Regulations ____ 15" and "Parts 25, 91, 103, and 121", respectively, in place thereof.

PART 141—PILOT SCHOOLS

4. Part 141 is amended as follows:

a. Section 141.47(a) is amended to read as follows:

§ 141.47 Curriculum requirements: Basic ground school.

* * * * *

(a) Instruction in § 23.3 and Parts 21, 45 and 91 of this chapter and so much of Part 61 of this chapter as applies to student and private pilot certificates.

* * * * *

§ 141.49 [Amended]

b. Section 141.49(a) is amended by striking out the words "Part ____ of this chapter [Present Part 42]" and inserting the words "Parts 121 and 135 of this chapter" in place thereof.

PART 147—MECHANIC SCHOOLS

5. Paragraphs (c)(1) and (d)(1) of § 147.21 are amended to read as follows:

§ 147.21 General curriculum requirements.

* * * * *

(c) * * *

(1) Parts 21, 23, 25, 27, 43, 65, 91, and 145 of this chapter as appropriate to the curriculum;

* * * * *

(d) * * *

(1) Parts 21, 23, 25, 27, 43, 65, 91, and 145 of this chapter as appropriate to the curriculum;

* * * * *

(Sec. 313(a), Federal Aviation Act of 1958; 49 U.S.C. 1354(a))

Issued in Washington, D.C., on April 4, 1967.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 67-3917; Filed, Apr. 10, 1967; 8:47 a.m.]

[Docket No. 7958; Amdt. 39-393]

PART 39—AIRWORTHINESS DIRECTIVES

Ratier-Figeac Model FH 76-1 Propellers

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the magnesium pitch change reduction gear housing to be reworked on Ratier-Figeac Model FH 76-1 propellers was published in 32 F.R. 3063.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

RATIER-FIGEAC. Applies to Model FH 76-1 propellers installed on Pilatus PC-6 Series airplanes.

Compliance required within the next 200 hours' time in service after the effective date of this AD, unless already accomplished, or previously modified by Ratier Figeac (Amendment No. 1018).

To prevent failure of the magnesium pitch change reduction gear housing, P/N 76-300-01, rework the housing in accordance with Ratier Figeac Service Bulletin 61-44, dated December 1966, or later SGAC-approved revision.

This amendment becomes effective May 11, 1967.

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

Issued in Washington, D.C., on April 4, 1967.

JAMES F. RUDOLPH,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-3915; Filed, Apr. 10, 1967; 8:46 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS

Catoctin Mountain Park, Md.

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), 245 DM-I (27 F.R. 6395), as amended, National Park Service Order No. 34 (31 F.R. 4255), Regional Director National Capital Region Order No. 3 (31 F.R. 8500), § 7.24 of Title 36 of the Code of Federal Regulations is amended as set forth below. The purpose of this amendment is to regulate possession and use of firearms and other weapons, to prohibit hunting and the disturbance of wildlife, and to restrict picnicking to locations provided or approved by the Superintendent. Regulations concerning fishing are deleted since they are no longer necessary in view of the provisions of the general regulations.

Since the amendment imposes no restrictions on the public beyond those which have previously been in effect, advance notice to the public is determined to be unnecessary. Therefore, this regulation shall take effect immediately upon publication in the FEDERAL REGISTER. (5 U.S.C. 553).

Section 7.24 is revised to read as follows:

§ 7.24 Catoctin Mountain Park.

(a) *Firearms, traps and other weapons.* The use of traps, seines, hand thrown spears, nets (except landing nets), firearms (including air and gas powered pistols and rifles), blow guns, bows and arrows or crossbows, and any other implements designed to discharge missiles in the air or under the water which are capable of destroying animal life is prohibited. The possession of such objects or implements is prohibited unless they are unloaded, and adequately cased or broken down, or otherwise packed in such a way as to prevent their use while in the park area.

(1) Authorized Federal, State, county, and city law enforcement officers may carry firearms in the performance of their official duties.

(b) *Wildlife; hunting.* The hunting, killing, wounding, frightening, capturing, or attempting to kill, wound, frighten, or capture at any time of any wildlife is prohibited, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury.

(1) The feeding, touching, teasing, molesting, or intentionally disturbing any wildlife or nesting and related activities or phenomena thereof is prohibited except as otherwise provided herein.

(c) *Picnicking.* Unless prior permission is obtained from the Superintendent, picnicking outside of designated picnic areas is prohibited.

WILLIAM J. GRAY,
Acting Superintendent,
Catoctin Mountain Park.

MARCH 27, 1967.

[F.R. Doc. 67-3914; Filed, Apr. 10, 1967; 8:46 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-318; Order 339]

PART 1—RULES OF PRACTICE AND PROCEDURE

Official Note of Facts

MARCH 31, 1967.

The Federal Power Commission by this order is amending its rules of practice and procedure by clarifying § 1.26(d) concerning the official notice of facts.

The Commission's present rule on official notice states that official notice may be taken of "technical or scientific facts of established character peculiarly within the general knowledge" of the Commission. This rule was promulgated shortly before the Administrative Procedure Act took effect (Order No. 132, 18 CFR 1.26 (d)) and appears to be a paraphrase of early drafts of the Act. We believe that § 1.26(d) is ripe for revision.

Experience, court cases and the legislative history of section 7(d) of the Administrative Procedure Act indicate that our present rule on the use of official notice is restrictive. The patterns of growth of both the electric power and natural gas industries challenge us to achieve procedural improvements to ensure the effective performance of the Commission's regulatory functions.

Expeditious proceedings have long been recognized as a means to this end. In the judicial sphere, the doctrine of judicial notice was developed as one tool to meet this need for expedition. The administrative adaptation of judicial notice is commonly called official notice. The use of this different term emphasizes the significant difference between the two doctrines. Professor Davis persuasively argues: "The customary assumption that official notice is merely the administrative counterpart of judicial notice and should therefore be governed by essentially the same principles is fundamentally unsound * * *." Davis, Official Notice, 62 Harv. L. Rev. 537 (1949). The fundamental functional difference between court and agency would appear to be in the role of each as fact-finder. The essence of the judicial process, the adversary system, makes the court a passive arbiter in the search for justice between both parties. An administrative agency on the other hand is charged with an affirmative duty to seek out all relevant and material facts in establishing policy. See Scenic Hudson Preservation Conf. v. F.P.C., 354 F. 2d 608 (2d Cir. 1966). And as the Supreme Court has stated: "The process of keeping informed as to regulated utilities is a continuous matter with commissions." Market Street Ry. Co. v. Railroad Commission of California, 324 U.S. 548, 562 (1945).

As early as 1904, the Supreme Court recognized the unique factfinding needs

of administrative agencies. See I.C.C. v. Baird, 194 U.S. 25, 44. The Attorney General's Committee on Administrative Procedure, whose studies led to enactment of the Administrative Procedure Act, recognized that protection of the public interest "makes it necessary to keep open the channels for the reception of all relevant evidence which will contribute to an informed result." Final Report, S. Doc. No. 8, 77th Cong., 1st sess., 70 (1941). In a similar vein the Attorney General's Manual on the Administrative Procedure Act, pp. 79–80 (1947), explains: "The process of official notice should not be limited to the traditional matters of judicial notice but extends properly to all matters as to which the Agency by reason of its functions is presumed to be expert * * *."

The legislative history of the Administrative Procedure Act, S. Doc. No. 248, 79th Cong., 2d sess., 1946, indicates that Congress intended the permissible scope of official notice to be broader than the Commission's present rule. An early House bill read: "The taking of official notice as to facts beyond the proof adduced * * * shall be unlawful unless of a matter generally recognized or scientific knowledge of established character * * *." Id. at 143. Another version limited official notice to "any matter of generally recognized fact or any technical or scientific fact of established character * * *. Id. at 174.

The Administrative Procedure Act, section 7(d), as passed by Congress, eliminated these restrictive phrases and provides instead that "where any agency decision rests on official notice of a material fact not appearing in the evidence in the record, any party shall on timely request be afforded an opportunity to show the contrary.

The present Commission rule may result in an unnecessarily restrictive approach towards official notice in Commission proceedings. This could increase hearing time to the detriment of practitioners, respondents or applicants, and the public. Agencies may take official notice of facts at any stage in a proceeding—even in the final decision" (Attorney General's Manual on the Administrative Procedure Act, 80 (1947)), however, the earlier in a proceeding notice is taken, the greater the "opportunity to show the contrary" of the noticed fact and the fairer the entire procedure.

Therefore, any participant requesting the taking of official notice subsequent to the conclusion of a hearing will henceforth be required to set forth clearly the reasons asserted as justifying his failure to make the request prior to the close of the hearing. This requirement in no way limits the rights of participants to make such requests before the conclusion of a hearing or of the examiner or the Commission to take official notice after the conclusion of a hearing.

Since we have a duty to consider all relevant facts (see Scenic Hudson Preservation Conf. v. F.P.C., 354 F. 2d 608 (2d Cir. 1966)), while at the same time affording an opportunity to contest all issues (see U.S. v. Pierce Auto Freight Lines Inc., 327 U.S. 615 (1946)) we believe it important that available evidentiary means be fully utilized in developing a record.

The present amendment is intended to permit and encourage the use of official notice to the fullest extent allowed by the Administrative Procedure Act in accordance with the policy of sections 15 (b) of the Natural Gas Act (15 U.S.C. 717n(b)) and 308(b) of the Federal Power Act (16 U.S.C. 825g(b)) and consistent with administrative fairness. The presiding examiners are encouraged to utilize official notice as an expeditious aid in regulating the course of hearings.

Official notice "has no other effect than to relieve one of the parties * * * of the burden of resorting to the usual forms of evidence." (Ohio Bell Tel. Co. v. P.U.C., 301 U.S. 292, 301 (1937)). Therefore, "the matters thus noticed become a part of the record and, unless successfully controverted, furnish the same basis for findings of fact as does 'evidence' in the usual sense" (Attorney Generals' Manual on the Administrative Procedure Act at, 80). Of course, the material to be noticed must meet the requirements of § 1.26(a) of the rules of practice and procedure as to relevancy and materiality, against unduly repetitious or cumulative evidence, and as coming within the test of affecting "reasonable and fair-minded men in the conduct of their daily affairs."

The information in the Commission's public files contains material that is often useful in the decision-making process. Such information in the public official records of the Commission should, in appropriate circumstances, be considered pursuant either to paragraph (c) or (d) of § 1.26 of the rules of practice and procedure.

This rule combines both the rule of procedure and of evidence. The Administrative Procedure Act sets out the procedural rule, while this order and the new § 1.26(d) set out evidentiary guidelines for the taking of official notices in a procedurally fair manner.

The Commission finds:

(a) Since the amendment here adopted involves a matter of Commission practice, no prior notice thereof is required by section 4 of the Administrative Procedure Act.

(b) The revision of § 1.26(d), here adopted, is necessary and appropriate for the purposes of the Federal Power and Natural Gas Acts.

The Commission, acting pursuant to the authority granted in sections 15 and 16 of the Natural Gas Act, as amended (52 Stat. 829, 830; 15 U.S.C. 717n, 717o) and sections 308 and 309 of the Federal Power Act, as amended (49 Stat. 858; 16 U.S.C. 825g, 825h), orders:

(A) Paragraph (d) of § 1.26, Part 1, Subchapter A, Chapter I of Title 18 of the Code of Federal Regulations is revised to read as follows:

§ 1.26 Evidence.

* * * * *

(d) *Official notice of facts.* Official notice may be taken by the Commission and the presiding examiner of such matters as might be judicially noticed by the courts of the United States, or any matters as to which the Commission by reason of its functions is an expert. Any participant shall, on timely request, be afforded an opportunity to show the contrary. Any participant requesting the taking of official notice after the conclusion of the hearing must set forth the reasons claimed to justify failure to make the request prior to the close of the hearing.

* * * * *

(Secs. 15, 16, 52 Stat. 829, 830; secs. 308, 309, 49 Stat. 858; 15 U.S.C. 717n, 717o; 16 U.S.C. 825g, 825h)

By the Commission.

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

[F.R. Doc. 67-3910; Filed, Apr. 10, 1967; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

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

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

2,4-D

Comments on the proposal to establish tolerances for residues of 2,4-D, published in the FEDERAL REGISTER of November 8, 1966 (31 F.R. 14359), have been received from Hercules, Inc., Wilmington, Del. 19899; Dow Chemical Co., Midland, Mich. 48641; Chevron Chemical Co., Ortho Division, 940 Hensley Street, Richmond, Calif. 94801; Chipman Chemical Co., Post Office Box 1065, Burlingame, Calif. 94010; Thompson-Hayward Chemical Co., 5200 Speaker Road, Post Office Box 2383, Kansas City, Kans. 66110; National Agricultural Chemicals Association, 1155 15th Street NW., Washington, D.C. 20005; Guth Chemical Co., 332 South Center Street, Hillside, Ill. 60162; and the U.S. Department of Agriculture.

The respondents suggested certain changes in designation of 2,4-D compounds and certain additional listings, and also requested a revision to use generic names which would include tolerances for additional compounds that may be marketed in the future.

The U.S. Department of Agriculture has reviewed the comments and endorsed certain of these changes and additions but recommends that tolerances be

established only for those compounds for which labels are now registered. Data are not available to support a more generic description of the compounds so as to establish tolerances for additional compounds that may be marketed in the future.

No request has been received for referral of the pesticide proposal to an advisory committee.

Based on available information, the comments received, and other relevant material, the Commissioner of Food and Drugs concludes that the amendments proposed should be issued as set forth below, that the pesticide tolerances established hereby will protect the public health, and that the food additive tolerances established hereby provide for safe residues in feed and food.

1. Accordingly, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (e), 68 Stat. 514; 21 U.S.C. 346a(e)) and delegated by him to the Commissioner (21 CFR 2.120), § 120.142 is amended by designating its present text as paragraph (a) and adding thereto a paragraph (b) reading as follows:

§ 120.142 2,4-D; tolerances for residues.

* * * * *

(b) Tolerances are established for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) at 0.5 part per million in or on the grain of, and at 20 parts per million in or on the forage of barley, oats, rye, and wheat from application of 2,4-D in acid form, or in the form of one or more of the following salts or esters:

(1) The inorganic salts: Ammonium, lithium, potassium, and sodium.

(2) The amine salts: Alkanolamines (of the ethanol and isopropanol series), alkyl (C-12), alkyl (C-13), alkyl (C-14), alkylamines derived from tall oil, amylamine, diethanolamine, diethylamine, diisopropanolamine, dimethylamine, ethanolamine, ethylamine, isopropanolamine, isopropylamine, linoleylamine, morpholine, methylamine, *N*-oleyl-1,3-propylenediamine, octylamine, oleylamine, propylamine, triethanolamine, triethylamine, triisopropanolamine, and trimethylamine.

(3) The esters: Amyl (pentyl), butoxethoxypropyl, butoxyethyl, butoxypolyethoxypropyl, butoxypropyl, butyl, dipropylene glycol isobutyl ether, ethoxyethoxyethyl, ethoxyethoxypropyl, ethyl, ethylene glycol butyl ether, 2-ethylhexyl (isooctyl), 2-ethyl-4-methylpentyl (isooctyl), isobutyl, isopropyl, methyl, 2-octyl (isooctyl), polyethylene glycol 200, polypropoxybutyl, polypropylene, glycol, propylene glycol, propylene glycol butyl ether, propylene glycol isobutyl ether, tetrahydrofurfuryl, and tripropylene glycol isobutyl ether.

2. Pursuant to the provisions of the act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under the authority delegated as cited above, Part 121 is amended:

a. By adding to Subpart C a new section as follows:

§ 121.300 2,4-D.

A tolerance of 2 parts per million is established for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) in the milled fractions derived from barley, oats, rye, and wheat to be ingested as animal feed or converted into animal feed. Such residues may be present therein only as a result of application to the growing crop of the herbicides identified in § 120.142 of this chapter.

b. By adding to Subpart D a new section as follows:

§ 121.1204 2,4-D.

A tolerance of 2 parts per million is established for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) in the milled fractions (except flour) derived from barley, oats, rye, and wheat to be ingested as food or to be converted to food. Such residues may be present therein only as a result of application to the growing crop of the herbicides identified in § 120.142 of this chapter.

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 objections 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. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Secs. 408(e), 409(d), 68 Stat. 514, 72 Stat. 1787; 21 U.S.C. 346a(e), 348(d))

Dated: March 31, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-3926; Filed, Apr. 10, 1967; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

ETHYL MALTOL; 2-ETHYL-3-HYDROXY-4H-PYRAN-4-ONE

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 5A1660) filed by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of ethyl maltol (2-ethyl-3-hydroxy-4H-pyran-4-one) as a food flavor. 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 2.120), § 121.1164(b) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.1164 Synthetic flavoring substances and adjuvants.

* * * * *

(b) * * *

* * * * *

Ethyl maltol; 2-ethyl-3-hydroxy-4H-pyran-4-one.

* * * * *

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 objections 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. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: March 31, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-3927; Filed, Apr. 10, 1967; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

OXIDIZED POLYETHYLENE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 5B1675) filed by Allied Chemical Corp., Plastics Division, Post Office Box 365, Morristown, N.J. 07960, and other relevant material, has concluded that the food additive regulations should be amended to provide for additional uses of oxidized polyethylene as a component of food-contact articles. The Commissioner has further concluded that §§ 121.2526 and 121.2571 should be amended by deleting provision for use of oxidized polyethylene as a component of paper and paperboard intended for

use in contact with foods that are dry solids with surfaces containing no free fat or oil, since new § 121.2517, set forth below, provides for such use of oxidized polyethylene. Therefore, pursuant to 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 2.120), Part 121 is amended in the following respects:

1. Section 121.2507(c) is amended by inserting alphabetically in the list of substances a new item, as follows:

§ 121.2507 Cellophane.

* * * * *

(c) List of substances:

	Limitations (residue and limits of addition expressed as percent by weight of finished packaging cellophane)
* * *	* * *
Polyethylene, oxidized; complying with the identity prescribed in § 121.2517(a).	----------

* * * * * * *

2. The following new section is added to Subpart F:

§ 121.2517 Polyethylene, oxidized.

Oxidized polyethylene identified in paragraph (a) of this section may be safely used as a component of food-contact articles, in accordance with the following prescribed conditions:

(a) Oxidized polyethylene is the basic resin produced by the mild air oxidation of polyethylene conforming to the density, maximum *n*-hexane extractable fraction, and maximum xylene soluble fraction specifications prescribed under item 2.3 of the table in § 121.2501(c). Such oxidized polyethylene has a minimum number average molecular weight of 1,200, as determined by high temperature vapor pressure osmometry, contains a maximum of 5 percent by weight of total oxygen, and has an acid value of 9 to 19.

(b) The finished food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 121.2526(c), yields net acidified chloroform-soluble extractives not to exceed 0.5 milligram per square inch of food-contact surface when tested by the methods described in § 121.2582(c), except that net acidified chloroform-soluble extractives from paper and paperboard complying with § 121.2526 may be corrected for wax, petrolatum, and mineral oil as provided in § 121.2526(d)(5)(iii)(b). If the finished food-contact article is itself the subject of a regulation in this Subpart F, it shall also comply with any specifications and limitations prescribed for it by such regulation. (NOTE: In testing the finished food-contact article, use a separate test sample for each extracting solvent.)

(c) The provisions of this section are not applicable to oxidized polyethylene used as provided in §§ 121.2519, 121.2520, and 121.2535. The provisions of paragraph (b) of this section are not applicable to oxidized polyethylene used as provided in §§ 121.2507, 121.2526(a)(5), and 121.2577.

3. Section 121.2526 is amended by revising the item "Polyethylene, air oxidized * * *" listed in paragraph (a)(5) and by alphabetically adding a new item to the list in paragraph (b)(2), as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	*Limitations*
* * *	* * *
Polyethylene, oxidized; complying with the identity prescribed in § 121.2517(a).	For use only as component of coatings that contact food only of the type identified under type VII–B of table 1 in paragraph (c) of this section, and limited to use at a level not to exceed 50 percent by weight of the coating solids.
* * *	* * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
Polyethylene, oxidized	Complying with § 121.2517.
* * *	* * *

* * * * *

§ 121.2571 [Amended]

4. Section 121.2571 *Components of paper and paperboard in contact with dry food* is amended by deleting from the list in paragraph (b)(2) the item "Polyethylene, air oxidized (minimum molecular weight 1,200)."

5. Section 121.2577 is amended by adding to paragraph (a) a new subparagraph (5) and by revising paragraph (b)(1), as follows:

§ 121.2577 Pressure-sensitive adhesives.

* * * * *

(a) * * *

(5) Polyethylene, oxidized; complying with the identity prescribed in § 121.2517(a).

(b) * * *

(1) Substances listed in paragraph (a) (1), (2), (3), and (5) of this section, and those substances prescribed by paragraph (a)(4) of this section that are not identified in subparagraph (2) of this paragraph.

* * * * *

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 objections 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. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: March 31, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-3928; Filed, Apr. 10, 1967; 8:47 a.m.]

SUBCHAPTER C—DRUGS

PART 148w—CEPHALOSPORIN

Sodium Cephalothin

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 by him to the Commissioner of Food and Drugs (21 CFR 2.120), the antibiotic drug regulations are amended to provide for the certification of an additional strength vial of sodium cephalothin for intravenous use. Accordingly, § 148w.1(a)(2) is revised to read as follows:

§ 148w.1 Sodium cephalothin.

(a) * * *

(2) *Packaging.* In addition to the requirements of § 148.2 of this chapter, if it is packaged for dispensing and is intended for both intravenous and intramuscular use, each vial shall contain the equivalent of 1 gram of cephalothin; except that if it is packaged for dispensing and is intended solely for intravenous use, each vial shall contain the equivalent of 4 grams of cephalothin.

* * * * *

This order provides for the certification of an additional dosage size of an antibiotic drug already being marketed and it is in the interest of the public health not to delay in so providing; therefore, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

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

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

Dated: April 3, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-3929; Filed, Apr. 10, 1967; 8:47 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Exemption for Certain Post Office Contracts With Common Carriers

On January 21, 1967, notice of proposed rule making regarding an exemption from the McNamara-O'Hara Service Contract Act of 1965 (79 Stat. 1035) was published in the FEDERAL REGISTER (32 F.R. 726). After consideration of all relevant matter presented, I find that the exemption proposed will avoid serious impairment of the conduct of Government business, and grant it as proposed by amending 29 CFR 4.6(c)(9) to read as provided below. As this amendment grants an exemption, delay in effective date is not required by 5 U.S.C. 553(d). It does not appear that such delay will serve a useful purpose. Accordingly this amendment shall be effective on publication in the FEDERAL REGISTER.

The amended 29 CFR 4.6(c)(9) reads as follows:

§ 4.6 Labor standards clauses for Federal Service contracts exceeding $2,500.

* * * * *

(c) * * *

(9) Any of the following contracts, all of which the Secretary of Labor has exempted from all provisions of the McNamara-O'Hara Service Contract Act of 1965 pursuant to its section 4(b) by a finding that such exemption is necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business: (i) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where such carriage is performed on regularly scheduled runs of the trains, airplanes, busses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue received therefrom.

(79 Stat. 1035)

Signed at Washington, D.C., this 6th day of April 1967.

CLARENCE T. LUNDQUIST,
Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor.

[F.R. Doc. 67-3940; Filed, Apr. 10, 1967; 8:49 a.m.]

Chapter V—Wage and Hour Division, Department of Labor

PART 526—INDUSTRIES OF A SEASONAL NATURE AND INDUSTRIES WITH MARKED SEASONAL PEAKS OF OPERATION

On pages 671 through 674 of the FEDERAL REGISTER of January 20, 1967, there was published a notice of proposed rule making to revise 29 CFR Part 526 and thereby provide the procedure for making determinations for effect under sections 7(c) and 7(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 201) as amended by the Fair Labor Standards Amendments of 1966 (P.L. 89-601) and give effect under section 7(c) of the amended Act to certain seasonal industry determinations theretofore made under section 7(b)(3) of the Act prior to the 1966 amendment.

On pages 674 and 675 of the same issue of the FEDERAL REGISTER separate proposals were made concerning the perishable fresh fruit and vegetable industry and the dairy products industry. Comments have been received concerning these separate proposals which deserve further study, and final action concerning them is not being taken at this time. Meanwhile the special enforcement policy expressed in the final paragraph of each of these proposals will have continued application.

Other requests for findings pursuant to sections 7(c) and 7(d) of the Act have been received, which require an effective regulation such as the proposed 29 CFR Part 526 to provide the procedure for dealing with them. One is treated in another section of this issue of the FEDERAL REGISTER.

After consideration of all relevant matter presented, the proposed revision of 29 CFR Part 526 is hereby adopted as set out below wherein the only departures from the proposal are the correction of three typographical errors noted in the margin. To the extent that these regulations are substantive they grant or recognize exemption, and thus come within the exemption from 5 U.S.C. 553 requiring a delayed effective date. As such delay would serve no good purpose, this revision shall be effective immediately.

Signed at Washington, D.C., this 6th day of April 1967.

CLARENCE T. LUNDQUIST,
Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor.

Sec.

526.1 Scope and application.
526.2 Issues.
526.3 Meaning of industry.
526.4 Policies.
526.5 Petitions and requests.
526.6 Initiating proceedings.
526.7 Notice of proceedings.
526.8 Procedures governing oral participation.
526.9 Certification of record.
526.10 Industries of a seasonal nature.
526.11 Industries characterized by annually recurring seasonal peaks of operations.
526.12 Seasonal industries engaged in certain operations on perishable agricultural or horticultural commodities.

AUTHORITY: The provisions of this Part 526 issued under Fair Labor Standards Act of 1938 (29 U.S.C. 201), as amended by the Fair Labor Standards Amendments of 1966 (P.L. 89-601); General Order No. 45-A of the Secretary of Labor (15 F.R. 3290); Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004) are authority for all sections in this part.

§ 526.1 Scope and application.

(a) The provisions of section 7 of the Fair Labor Standards Act of 1938, as amended, providing partial exemptions from its maximum hours provision for employees in industries found to be of a seasonal nature and for employees in some types of industries found to be characterized by marked annually recurring seasonal peaks of operation, are as follows:

(c) For a period or periods of not more than 10 workweeks in the aggregate in any calendar year, or 14 workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (d) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) [which prohibits employment for more than specified numbers of hours without specified overtime compensation] without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry found by the Secretary to be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of 10 hours in any workday, or for employment by such employer in excess of 50 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

(d) For a period or periods of not more than 10 workweeks in the aggregate in any calendar year, or 14 workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (c) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) [which prohibits employment for more than specified numbers of hours without specified overtime compensation] without paying the compensation for overtime employment prescribed in such subsection, if such employee—

(1) Is employed by such employer in an enterprise which is in an industry found by the Secretary—

(A) To be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, or

(B) To be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, and

(2) Receives compensation for employment by such employer in excess of 10 hours in any workday, or for employment in excess of 48 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

(b) The authority to make the findings contemplated by sections 7(c) and 7(d) of the Act has been delegated to the

Administrator of the Wage and Hour and Public Contracts Divisions (hereinafter called the Administrator). Each of these exemptions shall apply only to those industries which are the subject of currently effective findings.

(c) The regulations in this Part 526 set forth the general policies which will be observed by the Administrator in making, modifying, and revoking the findings on which the exemptions provided in sections 7(c) and 7(d) of the Act depend, provide the procedures whereby the requisite findings are made, amended, and revoked, and publish the lists setting forth each industry for which there exists a currently effective finding resulting in an exemption of either or both types for it.

§ 526.2 Issues.

The exemptions provided in the statutory provisions quoted in § 526.1(a) present three questions of fact which are relevant to the issue whether either or both exemptions has application to a particular industry. They are stated in paragraphs (a), (b), and (c) of this section.

(a) Is the industry of a seasonal nature?

(b) Is the industry engaged in the handling, packing, storing, preparing, first processing, or canning of perishable agricultural or horticultural commodities in their raw or natural state?

(c) If the industry is not of a seasonal nature, is it characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of perishable agricultural or horticultural commodities from farms?

(d) A determination that an industry qualifies for the exemption in section 7(c) or 7(d) depends upon affirmative answers to the questions stated in paragraps (a), (b), and (c) of this section. Affirmative answers to both the questions presented in paragraph (a) and paragraph (b) of this section will result in a determination that both exemptions apply, and listing the industry in § 526.12. Affirmative answer to the question presented in paragraph (a), with negative or no answer to the question presented in paragraph (b), will result in a determination that the exemption provided in section 7(c) of the Act has application, but the exemption provided in section 7(d) of the Act does not, and listing the industry in § 526.10. Affirmative answers to the questions presented by paragraphs (b) and (c), with negative or no answer to the question presented in paragraph (a), will result in a determination that the exemption provided in section 7(d) of the Act, but not the one provided in section 7(c) of the Act, has application, and listing the industry in § 526.11.

§ 526.3 Meaning of industry.

(a) The term "industry" as used in this part means a trade, business, industry, or branch thereof, or group of industries in which individuals are gainfully employed.

(b) In determining whether the operations for which exemption is sought constitute an industry or a separable branch of an industry, the following factors, among others, may be considered: The extent to which the activity carried on and the products under consideration are distinguishable from other activities and products, the geographical locations of the operations, the comparability of techniques and physical facilities with those found in other situations, the extent of integration with other operations, the extent of separation of employees performing the operations involved, established classifications in the industry, and any competitive factors involved.

(c) Affirmative findings on questions presented in § 526.2 (a), (b), and (c), whenever made by the Administrator as provided in this part, will define and delimit the scope of the industry to which they apply. No exemption under section 7(c) or 7(d) of the Act which is dependent on any such finding may be taken with respect to any employee in a workweek when he is employed in any enterprise, operation, or activity not included in the scope of such industry as thus defined and delimited.

§ 526.4 Policies.

(a) *Industries of a seasonal nature.* The Administrator will find an affirmative answer to the question presented in § 526.2(a) if the industry:

(1) Engages in handling, extracting, or processing materials during a season or seasons in a regularly, annually recurring part or parts of the year not substantially greater than 6 months, and ceases production, apart from work such as maintenance, repair, clerical, and sales work, in the remainder of the year, because of the fact that, by reason of climate or other natural conditions, the materials handled, extracted, or processed, in the form in which such materials are handled, extracted, or processed, are not available in the remainder of the year, or

(2) It engages in the handling, preparing, packing, or storing of agricultural commodities in their raw or natural state, and receives 50 percent or more of the annual volume of the products on which its operations are performed in a period or periods amounting in the aggregate to not more than 14 workweeks.

(b) *Perishable agricultural or horticultural commodities.* Pending revision of Part 780 of this chapter responsive to the Fair Labor Standards Amendments of 1966, the Administrator will be guided in finding the answers to the question presented by § 526.2(b) by the principles expressed in the following sections of Part 780 of this chapter where applicable: Handling, § 780.727 through § 780.729; packing, § 780.731; preparing, § 780.742; storing, § 780.732 and § 780.733; canning, §§ 780.758 through 780.764, and 780.950; first processing, § 780.951; and raw or natural state, § 780.743.

(c) *Seasonal peaks of operation.* The Administrator will find an affirmative answer to that portion of the question presented by § 526.2(c) requiring that there be seasonal peaks of operation if, in the industry as a whole, or typically in the establishments therein, there is a period or periods of not less than 1 month nor significantly greater than 3 months during each calendar year in which operations of the establishments in the industry must be adjusted to care for a seasonal influx of commodities in their raw or natural state which is substantially greater in volume than the average inflow of such commodities in the other months of the year. Pending revision of Part 780 of this chapter responsive to the Fair Labor Standards Amendments of 1966, the principles expressed in the following sections of that part, to the extent applicable, will guide the Administrator in applying the terms of the remaining portion of the question presented in § 526.2(c): First marketing, § 780.416; first processing, §§ 780.951 and 780.415; agricultural and horticultural commodities, §§ 780.121, 780.709 through 780.714; and from farms, § 780.414.

§ 526.5 Petitions and requests.

Any person may file with the Administrator of the Wage and Hour and Public Contracts Divisions of the U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210, a written petition to initiate proceedings to make, amend, or revoke findings with reference to a defined industry on the questions presented by § 526.2 (a), (b), and (c) and the responsive lists of exempt industries in §§ 526.10, 526.11, and 526.12.

§ 526.6 Initiating proceedings.

(a) The Administrator will consider every petition submitted pursuant to § 526.5. He will initiate proceedings in accordance with this part whenever he determines that such action is justified, and before any change is made in the lists provided in §§ 526.10, 526.11, and 526.12.

(b) The Administrator may also initiate proceedings on his own motion in accordance with this part.

§ 526.7 Notice of proceedings.

Notice of the initiation of proceedings shall be published in the FEDERAL REGISTER. Such notice will (a) refer to section 7(c) or section 7(d) or both such sections of the Fair Labor Standards Act of 1938 (29 U.S.C. 207 (c) and (d)), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and General Order No. 45–A of the Secretary of Labor (15 F.R. 3290) as authority for the proposal and direct attention to this Part 526 of Title 29 of the Code of Federal Regulations governing the procedure, (b) contain the terms or substance of the proposed finding, or a statement of the subjects and issues involved, and (c) invite interested persons to participate in the proceedings through the submission of pertinent written data, views, and arguments, specifying the time and place for such submissions. If the Administrator decides that the opportunity for written participation is to be supplemented with an opportunity for oral participation, a time and place shall also be specified for oral submissions of evidence.

§ 526.8 Procedures governing oral participation.

Such oral submissions as may be invited by the notice shall be heard at proceedings presided over by an examiner appointed under section 11 of the Administrative Procedure Act. Submissions pursuant to § 526.7 shall be made available for inspection by those participating. Such proceedings shall be reported, and transcripts made available to interested persons on such terms as the hearing examiner may provide. Any pertinent investigations or studies made by the Wage and Hour and Public Contracts Divisions and the support of any proposal it may make shall be presented, through witnesses supplied by the Divisions, by an attorney assigned by the Solicitor of Labor, who may call and examine such other witnesses and undertake such cross examination of witnesses called by others, as may seem appropriate. Subject to such limitations as the hearing examiner may impose to expedite the proceedings, limit the record, and confine it to pertinent matter, every interested person in attendance or represented at the proceedings shall have the opportunity to give evidence through witnesses he may produce, cross examine witnesses produced by others, and make argument based on all the evidence received. The hearing examiner shall regulate the course of the proceedings and dispose of procedural requests, objections, and comparable matters. He shall have power, in his discretion, to administer oaths and affirmations, to enforce his decisions by governing the content of the record and by excluding persons from the room where evidence is received whose presence he considers inappropriate, and to keep the record open for a reasonable stated time after the oral presentations to receive written proposals and supporting reasons, based on the record of the proceedings, from those who have participated in making it.

§ 526.9 Certification of record.

Following the close of the record of any oral proceeding held pursuant to §§ 526.6 and 526.7, the hearing examiner shall certify to the Administrator the transcript of the proceeding, all exhibits received in evidence, and any proposals and supporting reasons that may have been filed pursuant to leave granted at the proceeding, together with any comments he may deem helpful concerning any issue as to credibility of witnesses that may have developed at the proceeding. Following receipt of all written data, views, or argument submitted in accordance with a notice provided in § 526.7 and certification of the record of any oral proceeding held pursuant to § 526.7 and § 526.8, the Administrator shall consider all relevant material presented together with such other pertinent information as may be available to him, and find the answers to the questions listed in § 526.2 which are presented for decision. The Administrator's decision will be expressed in a document signed by him and published in the FEDERAL REGISTER making any necessary amendments to the lists provided in §§ 526.10, 526.11, and 526.12. Such document will incorporate a concise statement of its basis and purpose, and, except to the extent that it relieves a restriction, shall provide an effective date for the change not less than 30 days after the date of publication in the FEDERAL REGISTER, unless a shorter time is provided for good cause found and expressed in the document.

§ 526.10 Industries of a seasonal nature.

The following industries as defined in the FEDERAL REGISTER citation given for each, but no other industries, have been found to be of a seasonal nature within the meaning of section 7(c) of the Fair Labor Standards Act of 1938, as amended, but have not been found to qualify for the exemption in section 7(d) of such Act. An employer operating an establishment in an enterprise in any such industry in which operations named in the finding are carried on may select the workweeks (not more than 14) in each calendar year in which the partial overtime exemption provided by section 7(c) will be applied to employees in such establishment. (See § 516.18 of this chapter.) During each of the workweeks thus selected, any employee may be employed by an employer in such establishment without payment of the overtime compensation prescribed by section 7(a) of the Act, if such employee is not employed in any nonexempt work outside the scope of the industry and is paid overtime compensation at a rate not less than one and one-half times the regular rate at which he is employed for all hours worked in such workweek in excess of 10 in any workday or in excess of 50 in the workweek, whichever is greater. No employer, however, is permitted to employ any employee under the special provisions of section 7(c) in any industry in the following list for more than 14 workweeks in any calendar year.

Industry	Date of finding	Citation
Alfalfa and coastal bermuda grass (Artificial drying, subsequent manufacture of meal, and the making of dehydrated pellets)	Feb. 5, 1964	29 F.R. 1722
Beet sugar	Sept. 7, 1945	10 F.R. 11643
Cane sugar:		
Processing and milling branch, Louisiana	Nov. 16, 1939	4 F.R. 4615
	July 20, 1951	16 F.R. 7025
Redefinition (bagasse drying)	July 13, 1944	9 F.R. 8175
Redefinition (all operations)	July 7, 1945	10 F.R. 11643
Citrus pulp and waste debydrating in Texas	Mar. 25, 1943	8 F.R. 3811
	Jan. 18, 1956	21 F.R. 337
Clay products, brick manufacturing branch, Maine, Vermont, and New Hampshire	Dec. 27, 1939	5 F.R. 128
Cotton ginning	Feb. 9, 1951	16 F.R. 1500
Cotton, raw, storing	Sept. 19, 1940	5 F.R. 3772
Crushed stone, northern branch [1]	July 8, 1940	5 F.R. 2526
Supplementary determinations:		
No. 1 (The Gottron Bros., Sandusky County, Ohio)	Aug. 29, 1940	5 F.R. 3597
No. 2 (Kelley Island Lime and Transport Co., Erie County, Ohio)	Sept. 5, 1940	5 F.R. 3618
No. 3 (T. P. Rogers Stone Co., Monroe County, Pa.)	Sept. 6, 1940	5 F.R. 3618
No. 4 (LeRoy Lime and Crushed Stone Corp., Genesee County, N.Y.)	do	5 F.R. 3619
No. 5 (General Crushed Stone Co., Genesee County, N.Y.)	Sept. 7, 1940	5 F.R. 3658
No. 6 (General Crushed Stone Co., Luzerne County, Pa.)	do	5 F.R. 3659
No. 7 (Coon Certified Concrete, Luzerne County, Pa.)	Sept. 13, 1940	5 F.R. 3770
	Feb. 13, 1957	22 F.R. 895
No. 8 (Abram Cleason, Wayne County, N.Y.)	Sept. 13, 1940	5 F.R. 3848
No. 9 (Genesee Stone Products Corp., Genesee County, N.Y.)	do	5 F.R. 3849
No. 10 (Rowe Contracting Co., Suffolk and Middlesex Counties, Mass.)	do	5 F.R. 3849
No. 12 (Suffern Stone Co., Rockland County, N.Y.)	Feb. 17, 1941	6 F.R. 1051
No. 13 Warren Brothers Roads Company	Oct. 25, 1950	15 F.R. 7244
	Apr. 23, 1952	17 F.R. 3581
Decorative greens, certain branches	Mar. 8, 1940	5 F.R. 1020
Flax straw, unloading, weighing, loading, handling, baling and storage:		
Minnesota, North Dakota, South Dakota, and Iowa	Aug. 1, 1953	18 F.R. 4517
	Feb. 22, 1955	20 F.R. 1097
Fur, raw, receiving	Jan. 8, 1941	6 F.R. 196
Gold, placer, open-cut mining:		
Alaska	Jan. 15, 1964	29 F.R. 342
Grain; flaxseed, buckwheat, soybeans, rough rice: storing and drying before storage in country grain elevators, public terminal and sub-terminal grain elevators, wheat flour mill elevators, non-elevator type bulk storage establishments, and flat warehouses	Apr. 3, 1959	24 F.R. 2584
	May 5, 1959	24 F.R. 3581
Grass, clover, and other forage seed crops, cleaning and preparing	July 17, 1956	21 F.R. 5055
Ice, natural, harvesting and packing	Jan. 27, 1939	4 F.R. 463
Landscape contracting (except in California, Oregon, and Washington)	July 18, 1940	5 F.R. 2616
Lumber:		
Ice and snow road hauling branch, Maine, Massachusetts, New Hampshire, Pennsylvania, Vermont, Michigan, Minnesota, Wisconsin, and New York	May 10, 1939	4 F.R. 2022
Pulpwood sap peeling branch	do	4 F.R. 2022
Spring freshet driving branch:		
Maine, New Hampshire, New York, and Vermont	do	4 F.R. 2022
Michigan, Minnesota, and Wisconsin	Aug. 22, 1939	4 F.R. 3717
United States	Apr. 11, 1940	5 F.R. 1438
Meat curing and packing (Virginia-Smithfield)	Feb. 28, 1940	5 F.R. 815
Nursery stock, storing and packing	Dec. 2, 1940	5 F.R. 4801
Peanut handling, packing, shelling, etc	Dec. 23, 1940	5 F.R. 5242
Peat materials, production, northern branch [2]	Dec. 3, 1940	5 F.R. 4816
Pecan packing	Dec. 19, 1940	5 F.R. 5218
Rabbits, wild and other wild fur-bearing animals, skinning of	Dec. 11, 1942	7 F.R. 10495
Sand and gravel, northern branch [1]	Mar. 8, 1940	5 F.R. 1069
Supplementary determinations:		
No. 1 (Portland Sand and Gravel Co., Northampton County, Pa.)	May 29, 1940	5 F.R. 2123
No. 2 (J. C. O'Connor & Sons, Miami County, Ind.)	Aug. 22, 1940	5 F.R. 3497
No. 3 (Klamath Concrete Pipe Co., Klamath County, Oreg.)	Sept. 19, 1940	5 F.R. 3771
No. 4 (Kickapoo Sand and Gravel Co., Inc., Peru, Ind.)	Nov. 25, 1940	5 F.R. 4670

See footnotes at end of table.

Industry	Date of finding	Citation
Seed:		
Hybrid corn, processing	Oct. 19, 1939	4 F.R. 4311
Garden, and seed corn, cleaning and preparing	Apr. 26, 1940	5 F.R. 1601
Sorgo processing into sorgo sirup in Iowa	Sept. 8, 1943	8 F.R. 12529
Soybeans:		
Receiving for storage by cottonseed crushing mills	Oct. 2, 1950	15 F.R. 6696
Handling by cottonseed crushing mills	Mar. 6, 1954	19 F.R. 1271
	(Oct. 18, 1951	16 F.R. 10867
	(Apr. 7, 1961	26 F.R. 3304
Sugar cane processing and milling in the State of Florida		
Timber operations involving Lodgepole pine, etc., in States of Colorado, Wyoming, and Utah	Sept. 27, 1940	5 F.R. 3965
Tung nuts, milling	July 3, 1954	19 F.R. 4080
Tobacco:		
Auction and loose leaf branch using leaf tobacco of types 11, 12, 13, 14, 21, 22, 23, 24, 31, 35, 36, and 37	Jan. 27, 1939	4 F.R. 463
Green leaf, buying, handling, stemming, redrying, packing, and storing of types 11, 12, 13, 14, 21, 22, 23, 24, 31, 35, 36, and 37	do	4 F.R. 462
Green leaf, buying, handling, sorting, grading, packing, and storing of type 32	May 29, 1940	5 F.R. 2094
Perishable cigar leaf tobacco, buying, handling, stripping, sorting, grading, sizing, packing, and stemming prior to packing, types 41-45, 51-55, 61, and 62	Mar. 7, 1939	4 F.R. 1180
Walnuts and filberts, unshelled, drying, packing, and storing	Aug. 13, 1941	6 F.R. 4132
Wild rice, processing in State of Minnesota	Sept. 13, 1945	10 F.R. 11883
Wool, raw shorn fleece, receiving	June 12, 1941	6 F.R. 2875
Wool, raw shorn Texas, and/or mohair; receiving for storage in Texas	June 2, 1950	15 F.R. 3518

[1] The northern branch includes counties within the isothermic belt below 25 degrees Fahrenheit or which are touched by the 25-degree isotherm.

[2] The northern branch includes Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Michigan, Wisconsin, Minnesota, Illinois, Iowa, Indiana, North Dakota, South Dakota, Colorado, Utah, Nevada, Montana, Idaho, Oregon, and Washington.

§ 526.11 Industries characterized by annually recurring seasonal peaks of operations.

The following industries as defined in the FEDERAL REGISTER citation given for each, but no other industries, have been found to be of a seasonal nature within the meaning of section 7(d) of the Fair Labor Standards Act of 1938, as amended, but have not been found to qualify for the exemption in section 7(c) of such Act. An employer operating an establishment in an enterprise in any such industry in which operations named in the finding are carried on may select the workweeks (not more than 14) in each calendar year in which the partial overtime exemption provided by section 7(d) will be applied to employees in such establishment. (See § 516.19 of this chapter.) During each of the workweeks thus selected, any employee may be employed by an employer in such establishment without payment of the overtime compensation prescribed by section 7(a) of the Act, if such employee is not employed in any nonexempt work outside the scope of the industry and is paid overtime compensation at a rate not less than one and one-half times the regular rate at which he is employed for all hours worked in such workweek in excess of 10 in any workday or in excess of 48 in the workweek, whichever is greater. No employer, however, is permitted to employ any employee under the special provisions of section 7(d) in any industry in the following list for more than 14 workweeks in any calendar year.

Industry	Date of finding	Citation

§ 526.12 Seasonal industries engaged in certain operations on perishable agricultural or horticultural commodities.

The following industries as defined in the FEDERAL REGISTER citations given for each, but no other industries, have been found to be seasonal in nature and engaged in certain operations on perishable agricultural or horticultural commodities so that both the partial exemptions from the maximum hours requirement of the Fair Labor Standards Act of 1938 provided in its sections 7(c) and 7(d) apply to them. An employer operating an establishment in an enterprise in any such industry in which operations named in the finding are carried on may select the workweeks (not more than 10 for each exemption, or a total of 20 for both exemptions) in each calendar year in which the partial overtime exemptions provided by sections 7(c) and 7(d) will be applied in such establishment. (See §§ 516.18 and 516.19 of this chapter.) During each of the 20 workweeks thus selected, any employee may be employed by an employer in such establishment without payment of the overtime compensation prescribed by section 7(a) of the Act, if such employee is not employed in any nonexempt work outside the scope of the industry and is paid overtime compensation at a rate not less than one and one-half times the regular rate at which he is employed for all hours worked in such workweek in excess of 10 in any workday or in excess of 50 in not more than 10 of the workweeks which may be attributed to section 7(c), or in excess of 10 hours in any workday or in excess of 48 hours in the workweek in not more than 10 of the workweeks which may be attributed to section 7(d), whichever number of hours attributed to daily or weekly overtime work is greater. No employer, however, is permitted to employ any employee under the special provisions of sections 7(c) and 7(d) combined in any industry in the following list for more than 20 workweeks in any calendar year.

Industry	Date of finding	Citation

[F.R. Doc. 67-3951; Filed, Apr. 10, 1967; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER I—MILITARY PERSONNEL

PART 888a—ENLISTMENT OF NON-PRIOR SERVICE PERSONNEL IN READY RESERVE UNIT PROGRAMS

Part 888a is revised to read as follows:

Sec.

888a.0 Purpose.

Subpart A—Policy

888a.1 Policy.

Subpart B—Air Force Reserve Units in Training Category A

888a.10 What this program is.
888a.11 Who may enlist.
888a.12 How to enlist.
888a.13 Active duty for training (ACDUTRA).
888a.14 Participation in Reserve training.
888a.15 Action required when a member's unit is inactivated or when he moves from vicinity of unit.
888a.16 Release of members from this program.

Subpart C—Air National Guard of the United States

888a.20 What this program is.
888a.21 Who may enlist.
888a.22 How to enlist.
888a.23 Active duty for training (ACDUTRA).
888a.24 Participation in training.
888a.25 Action required when a member's unit is inactivated or when he moves from vicinity of unit.
888a.26 Release of members from this program.

Subpart D—Miscellaneous Provisions

888a.30 Unsatisfactory participation while on active duty for training.
888a.31 Courts-martial jurisdiction.
888a.32 Retention on active duty for training.
888a.33 Hospitalization and disability.
888a.34 Leave.
888a.35 Promotion.
888a.36 Release from active duty for training.

AUTHORITY: The provisions of this Part 888a issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, except as otherwise noted.

SOURCE: AFM 35-3Q, Feb. 7, 1967.

§ 888a.0 Purpose.

This part describes the purpose and explains Air Reserve Forces airman enlistment programs in Ready Reserve units available to qualified draft eligible applicants without prior military service. It also outlines the policies and procedures that apply.

Subpart A—Policy

§ 888a.1 Policy.

The Department of Defense has directed that the following policies be promulgated by February 1, 1967:

(a) Minimum standards for enlistment in any vacancy in any Reserve component shall be the same as the minimum standards for active duty enlistment in the occupational specialty concerned.

(b) It shall be normal practice to accept the earliest applicant for enlistment who meets the minimum qualifications for a vacancy and whose availability to serve with the unit is assured. Exceptions may be made when, in the best judgment of those responsible for the procurement of Reserve personnel, the individual's significant civilian experience in the occupational skill concerned is considered to warrant it.

Subpart B—Air Force Reserve Units in Training Category A

§ 888a.10 What this program is.

This program provides for the enlistment within available recruiting quotas of selected qualified nonprior service applicants to fill authorized grade and skill vacancies in Category A units organized to serve on active duty as units. Persons enlisting are required to serve on active duty for training for at least 4 months. After completing the initial active duty for training tour, an airman will return to his Air Force Reserve unit of assignment and must participate satisfactorily in Ready Reserve training for the remainder of his enlistment, unless sooner designated a member of the Standby Reserve.

§ 888a.11 Who may enlist.

Individuals without prior military service who are 17 but not yet 26 years old may enlist if:

(a) They meet requirements of AFR 45–47 (Enlistment and Reenlistment in the Air Force Reserve) and certify their understanding of applicable military service obligation and participation requirements.

(b) Before enlistment, they qualify by scoring the minimum aptitude index prescribed in AFM 35–1 (Military Personnel Classification Policy Manual (Officers, Warrant Officers, Airmen)) in the career field subdivision for which considered.

(c) A recruiting quota is available and grade and skill vacancies for which they are qualified exist in the Category A unit.

(d) They do not hold and have never held status as a member of any other armed service including any Reserve component.

(e) They have not been ordered to report for induction. Their draft status must be verified with the local selective service board immediately before enlistment.

§ 888a.12 How to enlist.

Individuals may apply for enlistment to any Category A unit organized to serve on active duty as a unit. Continental Air Command (CAC) will establish appropriate priorities and quotas for recruiting. The Category A unit must have a vacancy within its manning document and within the quotas established for the unit.

(a) Applicants will be enlisted under AFR 45–47 and must be qualified as outlined therein. AFR 45–47 and this part will be cited as authority on DD Form 4, Enlistment Record—Armed Forces of the United States.

(b) Enlistment will be in the grade of Basic Airman (E–1), except that a member of the Civil Air Patrol (CAP) who possesses a Certificate of Proficiency or a letter from CAP headquarters indicating successful completion of the CAP training program may be enlisted in the grade of Airman Third Class (E–2). The notation "CAP Certificate" will be placed in the remarks item on DD Form 4 and will be initiated by the enlistee.

(c) Enlistment as a Reserve of the Air Force for service in the Air Force Reserve will be for 6 years.

(d) Before enlisting, individuals must agree in writing to serve on active duty for training for a minimum of 4 months or for a longer period that would enable completion of any formal technical or other qualifying training applicable to their Air Force specialty.

§ 888a.13 Active duty for training (ACDUTRA).

(a) All nonprior service enlistees will be ordered to ACDUTRA for a minimum period of 4 months and such additional period as may be required to complete technical training and on-the-job training (OJT) appropriate to the specialty for which enlisted.

(b) Air Force Reserve orders for the initial ACDUTRA tour will be issued not earlier than 60 days before the individual's scheduled reporting date. Orders will cite 10 U.S.C. 672(d). A member is required to enter ACDUTRA within 120 days after enlistment. However, he may be delayed beyond 120 days only when approved by CAC. Delays may be authorized for but not limited to the following reasons:

(1) Until the technical training course is available if enlisted for a position requiring a highly specialized skill, or

(2) Until security clearance action is completed if enlisted for a position or if scheduled to attend a technical training course where either or both require access to classified information or equipment, or

(3) Temporary physical disqualification. Member will enter as soon as the physical disqualification is resolved.

NOTE: Delays may be authorized under subparagraph (1), (2), or (3) of this paragraph only for the minimum period necessary and shall in no event exceed 1 year.

(c) The training program consists of basic military training and one of the following until a minimum of 4 months ACDUTRA has been completed:

(1) Basic technical training.

(2) OJT at the member's home station or nearest military installation having OJT capability in the appropriate specialty. OJT will be scheduled only for individuals qualified at the time of enlistment for award of a specialty at the semiskilled level, or for individuals enlisted in a specialty for which no technical training is available.

(3) A combination of technical training and OJT.

§ 888a.14 Participation in Reserve training.

(a) An enlistee is not to participate in Reserve training before entry on his initial ACDUTRA tour.

(b) After completing the initial ACDUTRA tour, the member will be returned to his Category A unit of assignment and must satisfactorily participate in Reserve training. Satisfactory participation of members consists of attendance and satisfactory performance of assigned duties in at least 48 scheduled drills and 15 days of ACDUTRA annually, unless excused therefrom by proper authority. Satisfactory performance includes successful completion of on-the-job upgrade training within maximum allowable time limits.

§ 888a.15 Action required when a member's unit is inactivated or when he moves from vicinity of unit.

If a member's change of residence or inactivation of the unit precludes his further Reserve participation with the unit, the member will:

(a) Be assigned to another Category A Reserve unit, or

(b) Be encouraged to enroll in the Air Force Reserve Officers' Training Corps (AFROTC) if attending an appropriate educational institution, or

(c) If possible, be enlisted for service in the Air National Guard of the United States (ANGUS), or

(d) If an assignment as provided in paragraph (a), (b), or (c) of this section is not available, he will be assigned by CAC to an appropriate major command mobilization augmentation position (Training Category A, Pay Group A—for members on flying status) (Training Category B, Pay Group B—for members not on flying status), or

(e) If an assignment as provided in paragraph (a), (b), (c), or (d) of this section is not available, be assigned by CAC to a major command mobilization augmentation position (Training Category E, Pay Group E).

(f) Be assigned to the Obligated Reserve Section (ORS) if an assignment is not available and remain in this status until assignment action in this section is possible.

§ 888a.16 Release of members from this program.

A member may enlist in the Regular Air Force under Part 888 of this chapter at any time during his Reserve service. After completing his initial ACDUTRA tour, the member may be granted a conditional release under AFR 45–35 (Military Service Obligations and Transfer Between the Armed Services and Between Reserve Components of the Air Force) to serve in the ANGUS or to enlist in a Regular or Reserve component of another armed service.

Subpart C—Air National Guard of the United States

§ 888a.20 What this program is.

This program provides for enlistment and training of qualified nonprior service personnel to fill authorized grade and skill vacancies within ANG units. Persons enlisting are required to serve on ACDUTRA for at least 4 months. Enlistment of nonprior service personnel for service in the ANGUS will not be ac-

cepted other than as a part of this program.

§ 888a.21 Who may enlist.

Individuals without prior military service who are 17 but not yet 36 years of age may enlist if:

(a) They meet the physical, mental, moral, and general qualifications prescribed by ANG regulations and are otherwise acceptable to the Adjutant General of the State in which enlistment is contemplated.

(b) They certify that they understand the applicable military service obligation and participation and training requirements applicable to their age group.

(c) Grade and skill vacancies exist in the ANG unit.

(d) They do not hold status as a member of any other armed service including any Reserve component.

(e) They have not been ordered to report for induction. Their draft status must be verified with the local Selective Service Board immediately before enlistment.

§ 888a.22 How to enlist.

Individuals may apply for enlistment to the Adjutant General of any State, or to the commander of any ANG unit.

(a) Applicants will be enlisted under the appropriate ANG regulation.

(b) Enlistments will be in the grade of Basic Airman (E–1), except that a member of the CAP who possesses a Certificate of Proficiency or a letter from CAP Headquarters, indicating successful completion of the CAP training program may be enlisted in the grade of Airman Third Class (E–2). The notation "CAP Certificate" will be placed in the remarks item in DD Form 4, and initialed by the enlistee.

(c) Enlistment as a Reserve of the Air Force for service in the ANGUS will be for 6 years.

(d) Before enlisting, individuals must agree in writing to serve on ACDUTRA for a minimum of 4 months or for a longer period that would enable completion of any formal technical or other qualifying training applicable to their Air Force specialty.

(e) Upon enlistment, DD Form 44, "Record of Military Status of Registrant," will be prepared and distributed.

(f) When an otherwise qualified applicant questions his denial of enlistment because of nonselection for a quota vacancy, he will be advised:

(1) Of the policy in § 888a.1.

(2) That he may have his name retained on a waiting list pending the availability of another recruiting quota and may check his status at any time.

(3) Of other Reserve units to which he may apply for enlistment.

(4) That in the event he feels additional review of his application is warranted, he may appeal the denial of his immediate enlistment. The appeal will be in writing and will be forwarded to the Adjutant General of the State for final consideration. The unit will offer any necessary assistance in preparing the appeal.

§ 888a.23 Active duty for training (ACDUTRA).

(a) All nonprior service enlistees will be ordered to ACDUTRA in Federal status under the provisions of 10 U.S.C. 672(d), with the consent of the Governor or other appropriate authority of the State for a minimum period of 4 months and such additional period as may be required to complete the technical training and OJT appropriate to the specialty for which enlisted.

(b) Orders for a member's initial ACDUTRA tour will be issued not earlier than 60 days before his scheduled reporting date. A member is required to enter on ACDUTRA within 120 days after enlistment, except that his entry may be delayed:

(1) Until the technical training course is available if enlisted for a position requiring a highly specialized skill, or

(2) Until security clearance action is completed if enlisted for a position or if scheduled to attend a technical training course where either or both require access to classified information or equipment, or

(3) Temporary physical disqualification. Member will enter as soon as the physical disqualification is resolved.

NOTE: Delays may be authorized under subparagraph (1), (2), or (3) of this paragraph only for the minimum period necessary and shall in no event exceed 1 year.

(c) The training program consists of basic military training and one of the following until a total of 4 months ACDUTRA has been completed:

(1) Basic technical training.

(2) OJT at the member's home station or nearest military installation having OJT capability in the appropriate specialty. OJT will be scheduled only for individuals who are qualified at the time of enlistment for award of a specialty at the semi-skilled level, or for those individuals enlisted in a specialty for which no technical training is available.

(3) A combination of technical training and OJT.

(d) Upon completion of or elimination from prescribed ACDUTRA, the member will be returned to his home station.

§ 888a.24 Participation in training.

Satisfactory participation of members consists of attendance and satisfactory performance of training duty.

§ 888a.25 Action required when a member's unit is inactivated or when he moves from vicinity of unit.

(a) If possible, be enlisted in another ANG unit, or

(b) Be discharged from the ANGUS and transferred to the Air Force Reserve for assignment to:

(1) A Category A unit, or

(2) Be encouraged to enroll in AFROTC if attending an appropriate educational institution, or

(3) If an assignment as provided in paragraph (a) of this section or subparagraph (1) or (2) of this paragraph is not available, the member will be assigned by CAC to an appropriate major command mobilization augmentation position (Training Category A, Pay Group A—for members on flying status) (Training Category B, Pay Group B—for members not on flying status), or

(4) If an assignment as provided in paragraph (a) of this section or subparagraph (1) through (3) of this paragraph is not available, be assigned by CAC to a major command mobilization position (Training Category E, Pay Group E).

(5) If no assignment is available, he will be assigned to the ORS and remain in this status until assignment action in this section is possible.

§ 888a.26 Release of members from this program.

(a) *During the initial period of active duty for training.* Members will not be granted conditional releases to enlist in any other component (including USAF or Air Force Reserve) of the armed forces while serving on the ACDUTRA tour.

(b) *After the initial period of active duty for training.* The commander of the unit of assignment, within prescribed policy on releases for this purpose, may permit the conditional release of airmen.

Subpart D—Miscellaneous Provisions

§ 888a.30 Unsatisfactory participation while on active duty for training.

(a) General: Individuals ordered to ACDUTRA under this part must perform duty and training in a satisfactory manner. If a member commits an offense which the commander of the unit of attachment determines to be of sufficient significance to warrant a finding of unsatisfactory participation, a documented report together with a medical evaluation, if applicable, will be forwarded to CAC (for Air Force Reserve members) or to the Adjutant General of the appropriate State (for ANGUS members) for processing and appropriate action. Unless the commander having courts-martial jurisdiction desires to exercise his prerogative under the Uniform Code of Military Justice or unless administrative board action is considered appropriate under AFR 45–43 (Administrative Discharge of Airmen Members of the Air Force Reserve), the commander of the unit of attachment will issue orders to relieve the members from attachment and direct him to proceed to address of entry on ACDUTRA at which time he will revert to inactive duty. Nothing in this section is to be construed as limiting the provisions of § 888a.31. Commanders referred to in § 888a.31 will take action in accordance with the Uniform Code of Military Justice when appropriate.

(1) Typical but not all-inclusive reasons for a finding of unsatisfactory participation are:

(i) Failure to comply with ACDUTRA orders.

(ii) Absence without leave.

(iii) Failure of any training course when the failure is within the control of the member.

(iv) Determining that discharge action is appropriate under AFR 45–43 (see paragraph (b) of this section).

(v) Conviction by courts-martial.

(vi) Lost time, unless made up with the approval of the Commander, CAC (for Air Force Reserve members) or the Adjutant General of appropriate State (for ANGUS members).

(2) A member may be relieved from ACDUTRA because of personal hardship under the criteria outlined in chapter 3, section E, AFM 39–10 (Separation Upon Expiration of Term of Service, for the Convenience of the Government, Minority, Dependency and Hardship). The commander of the active establishment unit of attachment is authorized to take appropriate action.

(i) If so released, the member will be ordered to proceed to the address of entry on ACDUTRA and upon arrival thereat will revert to inactive duty.

(ii) A copy of the correspondence on approved cases will be forwarded to the ARPC, 3800 York Street, Denver, Colo. 80205 (for Air Force Reserve members), or to the Adjutant General of the appropriate State (for ANGUS members) for their use in determining whether or not the hardship conditions would also preclude the member from participating in scheduled Reserve unit training programs.

(3) A member may be relieved from technical training for personal hardship without being relieved from ACDUTRA. The member will be returned to a designated Regular Air Force unit for OJT and completion of the scheduled ACDUTRA tour. The technical training center commander is authorized to take appropriate action.

(b) When the Air Force Reserve member is eliminated from ACDUTRA for any reason or when administrative board action is considered appropriate under AFR 45–43, the unit of attachment will order the member to return to his Air Force Reserve unit of assignment for further duty and disposition.

(c) When an ANGUS member is eliminated from ACDUTRA for any reason or on whom administrative board action is considered appropriate under ANGR 39–10 (Enlisted Personnel—Discharge), he will be ordered by his unit of attachment to return to his ANGUS unit of assignment for further duty and disposition. A documented report, together with a medical evaluation if appropriate is to be forwarded by the unit of attachment to the Chief, National Guard Bureau (NG–AFPM), Washington, D.C. 20310, for processing and action.

§ 888a.31 Courts-martial jurisdiction.

Individuals ordered to ACDUTRA under this part are attached to Regular Air Force organizations for all matters pertaining to military justice, including courts-martial jurisdiction and imposition of punishment under Article 15, Uniform Code of Military Justice.

§ 888a.32 Retention on active duty for training.

Members of Reserve components will serve the specified period of ACDUTRA unless sooner released for cause or unless extended under this section. Major commanders are authorized to retain individuals involuntarily on ACDUTRA under circumstances as indicated in this section. This authority may be delegated to the commander of the unit of attachment (active establishment unit).

(a) Individuals may be retained on ACDUTRA:

(1) To permit members washed back in training through no fault of their own to continue training if such is recommended.

(2) To make up lost time.

NOTE: Must be approved by Commander, CAC (for Air Force Reserve members) or by the Adjutant General of the appropriate State (for ANGUS members).

(3) When such retention is deemed appropriate for reasons not covered in subparagraphs (1) and (2) of this paragraph.

(b) When a member is retained beyond the specified tour date completion, orders announcing the extension will be issued and copies furnished the Air Force Reserve or ANG unit of assignment in accordance with AFM 10–3 (Administrative Orders). If he is a member of the ANGUS, copies of the order will also be furnished the Adjutant General of the appropriate State by the unit of attachment.

§ 888a.33 Hospitalization and disability.

A member on an initial ACDUTRA tour as outlined in this part is entitled to the same medical care as a member of corresponding grade and service in the active military establishment. If the member's ACDUTRA orders specify a period of 30 days or more, his dependents also are eligible for medical care as provided in AFR 168–9 (Dependents Medical Care) and other applicable directives. He is entitled to pay and allowances while undergoing medical treatment, hospitalization, or rehospitalization, including processing under AFM 35–4 (Physical Evaluation for Retention, Retirement and Separation), after the expiration of his ACDUTRA tour (see Part 815 of this chapter and AFM 177–105 (Military Pay)). Chapter 8, AFM 35–4, applies to evaluation of members on ACDUTRA who may have a medical defect that would interfere with worldwide service.

§ 888a.34 Leave.

Members may be granted leave in accordance with AFM 35–22 (Leave) under the same conditions as members of the Regular Air Force. All leave granted must be taken during the ACDUTRA tour. This tour will not be increased to accommodate leaves granted. Members will be compensated for any portion of accrued leave not taken.

§ 888a.35 Promotion.

An airman ordered to ACDUTRA in the grade of Airman Basic (E–1) will be promoted to the permanent grade of Airman Third Class (E–2) upon completion of basic military training or 8 weeks of ACDUTRA in current enlistment, whichever occurs first, unless compelling military reasons prohibit such promotion. The 8 weeks will be computed from date of entry on ACDUTRA. The airman's date of rank and effective date of promotion will be the date of the promotion orders, except that an airman may be promoted on orders that specify a later effective date (but not later than the date of release from ACDUTRA).

(a) When the airman completes the minimum promotion service, the unit of attachment will issue promotion orders.

(b) When a member is considered but not promoted, he will be notified in writing and the reason for denying the promotion will be explained.

§ 888a.36 Release from active duty for training.

(a) A member will be released upon completion of 120 days ACDUTRA unless retained beyond this period to complete required technical or OJT training applicable to his Air Force specialty. A member who completes basic military training and/or technical training and has:

(1) Fifteen or more days remaining to complete the 120-day tour, will be returned to his Air Force Reserve or ANG unit of assignment for OJT and release upon completion of the ACDUTRA tour.

(2) Less than 15 days remaining to complete the 120-day tour is to be retained and released by his unit of attachment upon completion of the ACDUTRA tour.

(b) DD Form 214, "Armed Forces of the United States Report of Transfer of Discharge," will be issued to each individual released from ACDUTRA under this part.

(c) The servicing CBPO of the unit that terminates the member's ACDUTRA tour will be responsible for accomplishing and/or arranging the complete separation processing of the member. In every instance, the member is to be given a physical examination.

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67-3898; Filed, Apr. 10, 1967; 8:45 a.m.]

SUBCHAPTER W—AIR FORCE PROCUREMENT INSTRUCTION

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Subchapter W of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

PART 1001—GENERAL PROVISIONS

Subpart C—General Policies

§ 1001.312–50 [Amended]

1. In § 1001.312–50, the parenthetical phrase in the second and third lines of subparagraph (3) of paragraph (c) is changed to read, "(see subparagraph (2) of this paragraph)".

§ 1001.313–50 [Amended]

2. In § 1001.313–50, in line 13 the symbol is changed from "AFLC (MCSCP)" to "AFLC (MCOP)".

3. Section 1001.313–53 is added; in § 1001.321, the text is deleted; § 1001.321–50 is added; and §§ 1001.325, 1001.325–1 and 1001.325–2 are deleted. These sections now read as follows:

§ 1001.313–53 Aerospace ground equipment (AGE).

When the AGE requiremnt or a portion thereof is known (adequate description and quantities) prior to definitive contract placement, whether for development and/or production contracts or follow-on contracts, these known requirements will be specifically stated as an item of the contract. Conversely, those anticipated AGE requirements which are unknown (inadequate description and/or quantities) at the time of definitive contract placement will be met through use of the provisioning procedures (see Subpart B, Part 1055 of this subchapter).

§ 1001.321 Procurement involving work to be performed in foreign countries.

§ 1001.321–50 Designated coordination focal points.

(a) Coordinations prescribed by § 1.321 of this title will be effected in behalf of contracting officers by the appropriate designated AF oversea procurement activity. For contracts to be performed in the oversea areas listed in this paragraph, the designated activity is:

(1) USAFE: the Air Force Procurement Region European (APRE).

(2) PACAF: the Air Force Procurement Region, Far East (APRFE).

(3) Alaska: the Director of Procurement, Alaskan Air Command (AAC).

(4) USAFSO: the Director of Procurement, Southern Air Command (USAFSO).

(b) 80° east longitude will be considered the dividing line between the APRE and APRFE areas of responsibility.

(c) Responsibilities: (1) The designated activity will:

(i) Secure the coordination of and make necessary arrangements with the other major command, or his command, as is appropriate.

(ii) Obtain and furnish the contracting officer the information set forth in § 1.321(b) of this title.

(2) The contracting officer will furnish the appropriate designated activity the information specified in § 1.321(c) of this title.

§ 1001.325 Variation in quantity. [Deleted]

§ 1001.325–1 Processing variations permitted by the contract. [Deleted]

§ 1001.325–2 Processing variations not permitted by the contract. [Deleted]

Subpart G—Small Business Concerns

4. Section 1001.706–1 is revised to read as follows:

§ 1001.706–1 General.

(a) If circumstances permit the use of Preinvitation Notices (see §§ 2.205–6 of this title and 1002.205–6 of this subchapter) and the Commerce Business Daily prior to issuing IFBs or RFPs, the small business definition for that particular procurement will be included in the Preinvitation Notice and in the transmittal to the Department of Commerce. Prospective suppliers will be required to state in their replies to the Preinvitation Notices whether they qualify as small business according to that definition. In such cases no determination as to the applicability of a set-aside will be made until the replies to the Preinvitation Notices have been reviewed to determine the extent of available competition.

Subpart J—Publicizing Procurement Actions

5. In § 1001.1002, paragraph (a) is amended by deleting subparagraphs (2) through (13) and substituting the following therefor:

§ 1001.1002 Dissemination of information relating to invitations for bids and requests for proposals.

* * * * *

(a) * * *

(2) DCASD, Orlando AFB, Fla. 32813.

(3) All DCASRs.

(For DCAS addresses see DOD 4105.59–H, DOD Directory of Contract Administration Services Components.)

* * * * *

PART 1002—PROCUREMENT BY FORMAL ADVERTISING

Subpart D—Opening of Bids and Award of Contract

6. Section 1002.407–9 is amended by adding a new paragraph (a) as follows:

§ 1002.407–9 Protests against awards.

(a) Protest of small business status: Protests of small business status received prior to or after award will be processed per instructions in § 1.703(b) of this title.

* * * * *

PART 1003—PROCUREMENT BY NEGOTIATION

Subpart A—Use of Negotiation

7. Sections 1003.101, 1003.101–50, and paragraphs (a) and (b) of § 1003.103 are deleted as follows:

§ 1003.101 Negotiation as distinguished from formal advertising. [Deleted]

§ 1003.101–50 Requests for proposals (RFPs). [Deleted]

§ 1003.103 Records and reports of negotiated contracts.

(a) [Deleted]

(b) [Deleted]

* * * * *

8. Subpart B is revised to read as follows:

Subpart B—Circumstances Permitting Negotiation

Sec.
1003.204 Personal or professional services.
1003.204–50 Procurement of expert and consultant services by contract.
1003.210 Supplies or services for which it is impracticable to secure competition by formal advertising.
1003.210–2 Application.
1003.210–3 Limitation.
1003.211 Experimental, developmental, or research work.
1003.211–50 Sample format and justification.
1003.212 Classified purchases.
1003.212–50 Format and justification.
1003.213 Technical equipment requiring standardization and interchangeability of parts.
1003.213–4 Record and reports.
1003.213–50 Format and justification.
1003.214 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.
1003.214–50 Format and justification.
1003.215 Negotiation after advertising.
1003.215–50 Application.
1003.215–51 Format.
1003.216 Purchases in the interest of national defense or industrial mobilization
1003.216–50 Format.
1003.217 Otherwise authorized by law.
1003.217–2 Application.

AUTHORITY: The provisions of this Subpart B issued under sec. 8012, 70A Stat. 488, secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 8012, 2301–2314, except as otherwise noted.

Subpart B—Circumstances Permitting Negotiation

§ 1003.204 Personal or professional services.

§ 1003.204–50 Procurement of expert and consultant services by contract.

The following procedures will be observed to obtain authority to procure expert and consultant services regardless of the negotiation authority used:

(a) For management-engineering and miscellaneous personal or professional services other than architect-engineer (see AFR 25–4 (Expert and Consultant Services)).

(b) For professional nonpersonal architect-engineer services (see Part 834 of this chapter).

§ 1003.210 Supplies or services for which it is impracticable to secure competition by formal advertising.

§ 1003.210–2 Application.

(a) When considering determinations and findings (D&F), contracting officers and approving officials will exercise due care before a determination is made that a particular item can be obtained from only one person or firm. Complete sole source substantiation must be included in the determination and finding. Merely citing this authority will not suffice.

(b) No implementation.

(c) This authority may be used only if the negotiation is for identical requirements of the Invitation for Bids. If specification deviations are authorized or the delivery requirements or quantities are changed, consideration must be given to advertising for revised requirements or negotiating under some other exception.

(d) through (x) No implementation.

(y) The contemplated procurement is for replenishment spare parts, or com-

ponents, coded central procurement, and it is not economical to search for data, or review data, beyond the point necessary to identify previous sources. The "not economical" test will be deemed satisfied for the foregoing category of parts and components if the procurement is for:

(1) Spare parts, or components, where the total estimated value of any combination of identical parts, or components, procured under a contract (or order) does not exceed $2,500.

(2) Identical parts or components where the requirement for same would become so urgent if time was expended in searching for and reviewing data prior to taking procurement action, as to justify procurement under 10 U.S.C. 2304 (a)(2). (The foregoing exception may be used one time only for a given part or component. Once aware of the situation, research and review of data must be undertaken in time to remove any future requirement from this category.)

§ 1003.210–3 Limitation.

Determinations and findings will set forth the particular reasons why competition by formal advertising is impracticable, and will be approved as provided in § 1003.306(b). Following is approved format for determinations and findings under 10 U.S.C. 2304(a)(10) (§ 3.210 of this title):

DEPARTMENT OF THE AIR FORCE

DETERMINATIONS AND FINDINGS

Authority To Negotiate Contract

1. The Department of the Air Force proposes to purchase _____

2. I hereby find that the use of formal advertising would be impracticable for the following reasons: (Set forth the peculiar facts and circumstances which will justify clearly the specific determination made. These circumstances must conform to the subparagraph number inserted below).

3. I hereby determine that this procurement is for supplies for which it is impracticable to secure competition by means of formal advertising, and that the negotiation of a contract for these supplies is authorized pursuant to 10 U.S.C. 2304(a)(10) as contemplated by paragraph 3-210.2( )[1] of the Armed Services Procurement Regulation.

(s)_____
(Contracting officer)

PR_____

Approved:_____
(Name and title)

§ 1003.211 Experimental, developmental, or research work.

§ 1003.211–50 Sample format and justification.

(a) Following are formats acceptable for determinations and findings under 10 U.S.C. 2304(a)(11). The first format is for individual determinations and findings. The second format is for class determinations and findings.

(1) DEPARTMENT OF THE AIR FORCE

INDIVIDUAL DETERMINATIONS AND FINDINGS

Authority To Negotiate Contract

I hereby find this procurement is for (set forth description of work to be accomplished and enough specific facts and circumstances to justify the specific determination to be made). (This is a follow on procurement action which was originally placed through competition.)[1]

I hereby determine that the proposed procurement is for (experimental) (developmental) (or research) work (and for furnishing of property for development and test)[2] and is required in the interest of national defense.

I further determine that the use of formal advertising would be impractical because (set forth the basic reason only).

Upon the basis of the determination and findings above, I hereby authorize the negotiation of a contract for this procurement pursuant to 10 U.S.C. 2304(a)(11).

(2) DEPARTMENT OF THE AIR FORCE

DETERMINATIONS AND FINDINGS

Authority To Negotiate Contracts

This procurement will consist of one or more contracts for (set forth cursory description only) _____

I hereby find that the proposed contracts are for the procurement of (set forth description of work to be accomplished and specific facts and circumstances to justify determination to be made) _____

I hereby determine that the proposed contracts are for (experimental) (Developmental) (research) work (or for making or furnishing of property for experiment, test, development, or research)[2] and are required in the interest of national defense.

I further determine that the use of formal advertising would be impractical because (set forth specific reasons). It is to be understood, however, that this determination and findings will not be used to avoid procurement by formal advertising for items which can be procured by that method without impairing the program.

Upon the basis of the determinations and findings above, I hereby authorize the negotiation of contracts for this procurement pursuant to 10 U.S.C. 2304(a)(11). This class determination shall remain in effect until June 30, ____.[3]

(i) For easy identification the lower right-hand side of the D&F will contain the purchase request number or other identifying nomenclature (e.g., project number or weapon system number).

(ii) To relieve undue administrative processing, minimize delays to important major weapon system programs, and to provide for more operational flexibility, class determinations and findings, instead of individual determinations and findings, may be used across the entire exploratory development program or for each major research and development program when there is a good likelihood that more than one contract will be issued during a period (normally not to exceed one fiscal year) in furtherance of such program. The number of individual requests for determinations and findings that will be required should the request for class determinations and findings be disapproved will be noted in the letter of transmittal. Basic criteria which must be met in grouping effort into a class determination and findings package are:

(a) The overall program area should be controlled by "a single point of strong technical management."

(b) There should be a major thread of common technical effort to be undertaken, preferably administered through a single organization.

(c) In addition to being sufficiently definitive to determine that negotiation is, indeed, required, the total effort covered must also be specific enough to insure that only that effort which has been defined is included in the broad authorization.

(d) The total proposed effort described for authorization must fall within available resources and conform to previous program decisions.

§ 1003.212 Classified purchases.

§ 1003.212–50 Format and justification.

(a) Following is approved format for determinations and findings under 10 U.S.C. 2304(a)(12) (§ 3.212 of this title):

DEPARTMENT OF THE AIR FORCE

INDIVIDUAL DETERMINATIONS AND FINDINGS

Authority To Negotiate Contract

The Department of the Air Force proposes to purchase _____

I hereby find that this procurement is for property and services which, because of military considerations, have a security classification of (Secret) (Confidential) (Top Secret) or (the purchase should not be publicly disclosed because of the character of the procurement).

I further find that the use of formal advertising would be impracticable (set forth specific reasons).

I hereby determine that the ingredients and components (character) of this property and services are (is) such that the contract (purchases) should not be publicly disclosed.

Upon the basis of the determinations and findings above, I hereby authorize the negotiation of a contract for this procurement pursuant to 10 U.S.C. 2304(a)(12).

(b) The following information will be shown in the letter of transmittal requesting determinations and findings under section 10 U.S.C. 2304(a)(12):

(1) Description of the supplies or services being purchased.

(2) Grade of classification and authority, e.g., Confidential as per JANAP 140(b).

(3) Statement of how advertising and competitive bidding would reveal security information, such as disclosure of: Specifications, classified source, classified fact that the Air Force is engaged in a project of a particular nature, etc.

(4) Statement that none of the authorities listed in § 3.212–3 of this title could be used as authority for negotiating the procurement.

(5) Statement that except for security classification the procurement would have been effected by formal advertising or by negotiation pursuant to section 10 U.S.C. 2304(a)( ), whichever of these two methods of procurement is applicable.

§ 1003.213 Technical equipment requiring standardization and interchangeability of parts.

§ 1003.213–4 Record and reports.

The Directorate of Procurement Policy, DCS/S&L (AFSPPB), Hq USAF,

[1] Insert the appropriate subparagraph number.

[1] This statement will be added if applicable.

[2] Use the word or words "experimental," "developmental," "research," or "furnishing of property for development and test," which properly describe the work to be done.

[3] Each class determination and findings will specify an effective period which will normally not exceed 1 year.

will maintain on a current basis a master list of items for which determinations and findings have been made under this authority.

§ 1003.213–50 Format and justification.

(a) The examples for determinations and findings that are in § 1003.210 through § 1003.215 may be used as a guide in the preparation of determinations and findings under § 3.213 of this title. In preparing determinations and findings, the circumstances of the individual case will dictate the content as well as the justification to be included in the letter of transmittal. Each request for determination will include the following information:

(1) A detailed statement as to the interdepartmental coordination effected. (See § 3.213–2(c) of this title.)

(2) The method used in selecting the proposed supplier at the time of the initial procurement including the extent of competition. (See § 3.213–3 of this title.)

(3) The safeguards established to insure fair pricing after approval to standardize is received.

(b) Application: (1) Except as noted in subparagraph (6) of this paragraph, requests for procurement standardization action may be initiated by an individual organization, through appropriate channels, to the Directorate of Supply and Services, Hq USAF (AFSSSDB).

(2) The Directorate of Supply and Services will forward the request to the office of primary responsibility for recommendations on disposition and priority rating to be placed on the item of equipment involved. Recommendations of standardization action with appropriate rating will then be forwarded by the Director of Supply and Services to Air Force Departmental Standardization Office (AFSPDPD).

(3) In arriving at its decision, Hq USAF will apply the criteria and requirements of § 3.213–2 of this title. If it is decided that standardization is warranted, AFSPDPD will forward its recommendations, supported by substantiating data, in quadruplicate, to Hq USAF (AFSSSDB) for coordination with the office of primary responsibility and subsequent submission to the Secretary of the Air Force or his designated representative for findings and determinations.

(4) To facilitate processing, each request will be limited to a single item of supply or group of related items.

(5) In transmitting AF initiated Military Interdepartmental Purchase Requests (MIPRs) requiring procurement of specific technical commercial-type items of equipment for reasons of standardization, the initiating activity will attach a copy of the approved determination to standardize, signed by the Assistant Secretary of the Air Force (Materiel).

(6) Request for approval to standardize fixed-type equipment under Military Construction Programs will be transmitted by the Air Force Regional Civil Engineer (AFRCE) or major command to the Director of Civil Engineering, Hq USAF, for necessary Air Staff action and Secretarial approval.

§ 1003.214 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.

§ 1003.214–50 Format and justification.

(a) Following is approved format for determinations and findings under 10 U.S.C. 2304(a)(14) (§ 3.214 of this title):

DEPARTMENT OF THE AIR FORCE

INDIVIDUAL DETERMINATIONS AND FINDINGS

Authority To Negotiate Contract

1. This procurement will consist of ------ (describe the items being procured). Supporting items or services will be adequately defined so that, when read in context with the supporting documentation, there is no ambiguity about the scope of authority to negotiate. For example, "certain spare parts," "engineering services required for installation and testing," or "that aerospace ground equipment which is both initial and peculiar" are considered adequate descriptions for purposes of this paragraph 1.

2. Authority To Negotiate for Spare Parts (exclude when not applicable). The authority herein granted to negotiate for spare parts is limited to those spare parts which are determined, not later than 90 days prior to the scheduled acceptance of the last article under the contract, to be necessary to support the end items being procured under authority of this determination and findings and are not identical to parts previously procured by the Air Force on other than the contract to which this determination and finding is applicable.

3. In this paragraph, establish that the property to be procured is of a technical or specialized nature. Set forth the peculiar facts and circumstances which will clearly justify the determination that the supplies are of a technical or specialized nature requiring (either or both): a substantial investment or an extended period of preparation for manufacture.

(a) If it is to be determined that substantial investment is required, set forth an estimate of the dollars specifically expended in preparing for production of the items involved. Further, state the estimated value of the investment which would be duplicated should a source other than the one which has already produced the item be awarded the contract. This determination should not be used to avoid duplication of private investment unless this duplication would be likely to result in additional cost to the Government.

(b) If it is to be determined that an extended period of preparation for manufacture is required, include such facts as (i) the time already spent by the present supplier in acquiring the techniques, know-how, and experience necessary for producing the item, and (ii) the period of preparation time which would have to be duplicated by a source not having the background experience in the item and the impact thereof on the required delivery schedule.

4. Include a statement substantially as follows: Based on the findings above made, I hereby determine that the proposed procurement is for technical or special property requiring (a substantial initial investment) (an extended period of preparation for manufacture)[1] and that formal advertising (would result in additional cost to the Government by reason of duplication of investment) (would result in duplication of necessary preparation already made and would unduly delay procurement).[1]

5. Upon the basis of the determinations and findings above, I hereby authorize the negotiation of a contract for this procurement pursuant to 10 U.S.C. 2304(a)(14).

(b) Two distinct but interrelated categories of information will be set forth in narrative form in the letter of transmittal requesting determinations and findings under 10 U.S.C. 2304(a)(14). The first category will contain facts conclusively demonstrating compliance with the legal requirements for negotiation. The second category will cover the general history of previous procurements of the items as known to the buyer without detailed research and the current procurement plan for the item including actions taken or planned to develop a competitive posture.

(1) Category 1—Legal Sufficiency—will contain the following data:

(i) Adequate description both in layman's terms and by specific nomenclature of principal and supporting items or services to be procured under authority of proposed determinations and findings.

(ii) An explanation of why the basic item being procured constitutes technical and special property.

(iii) The estimated price or cost of the quantities which may be procured under the reasonably firm procurement program as defined in § 1003.306(d).

(iv) Where duplication of a substantial initial investment is relied upon as the basis for satisfying the legal requirement, the analysis of the duplication in investment will cover the following:

(*a*) The elements of cost included in computation of Government's and contractor's original investment, e.g., research, development, facilities, and special tools.

(*b*) How the quantum of the Government's and contractor's investment which would be duplicated was determined.

(v) Where duplication of an extended period of preparation for manufacture is relied upon as a basis or the basis for satisfying the legal requirement, it must be clearly demonstrated that the undue delay created by the use of formal advertising would be prejudicial to the AF mission. Where corrective action for the future is indicated such will be discussed under category 2 below. In addition, the analysis for use of this reason will include the following:

(*a*) Description of major categories of work (e.g., development of a prototype, tooling-up for production, training of personnel) considered to constitute preparation for production.

(*b*) What elements of preparation would have to be duplicated by other qualified but inexperienced producers.

(*c*) How the total preparation time which would be duplicated at this time was generally estimated.

(2) Category 2—History of Previous Procurements for End Items and Current and Future Procurement Plans—will contain the following data, as illustrated in subdivision (vi) of this sub-

[1] Insert one or both of the phrases in parentheses, as appropriate.

paragraph, to the extent readily available without detailed research:

(i) How present producer was initially selected.

(ii) Efforts to establish competitive sources and what impediments must be overcome to develop a competitive posture. (For example: There are many cases where future requirements for an item which is the subject of the request for determinations and findings can be procured competitively if it were possible to live with the procurement lead time of inexperienced but qualified producers. Generally, in this situation funding limitation is the impediment to be overcome and corrective action as shown in subdivision (v) of this subparagraph will be taken.)

(iii) Considerations given to splitting the current procurement into quantities immediately required and those which can be delayed to obtain competition.

(iv) Specific type of contract contemplated as defined in Subpart D, Part 3, Chapter I of this title and Subpart D of this part.

(v) To alert requiring, programing, and procuring activities to bring about an earlier release of future years buying programs and funds therefor, the following information will be acquired and furnished with each D&F request for items which could be competitively procured if it were possible to live with the procurement lead time of a qualified but inexperienced producer:

FORMAT

For information to accompany transmittal letters forwarding Determinations and Findings under 10 U.S.C. 2304(a)(14) for requirements to be procured from a sole source but which can be competed if program release is earlier.

(a) D&F No. (To be assigned by AFSPPCA). Description.

(b) FY-19 Leadtime (mos.) Required Release Date to Compete.

Units _____ Other Producer _____

Units _____ Present producer _____

FY-19 Leadtime (mos.) Require Release Date to Compete.

Dollars _____ Other producer _____

Dollars _____

(c) Date(s) Requiring Activity questioned on future requirements _____

Date(s) Requiring Activity submitted future requirements _____

Name(s) of Requiring Activity _____ (Program Destination or Organization).

(d) Date the Programing Activity notified of required Program.

Release date _____

(e) Other pertinent information:

The above information as to all known future year requirements will be obtained from the requiring activities at the time the D&F is prepared. These requirements will, in turn, be converted into the required program release dates and submitted to the programing activity for their information and action.

(vi) Digest examples:

(a) The X Corporation is presently developing the equipment under a competitively awarded contract which calls for a prototype, 19 production units, and engineering data adequate for competitive procurement. The prototype is scheduled for final acceptance, testing, and evaluation in October 1961 and the procurement data to be delivered in the future will be based on the prototype as finally approved and accepted. It is not possible to defer this procurement until said data is available for competitive procurement because of the critical delivery requirements.

(b) The quantities to be negotiated with the X Corporation at an estimated price of $473,610 are the minimum required to meet critical installations and represent only a portion of the current AF requirements. Additional requirements in the estimated amount of $426,645 will be procured competitively. This will be the third production contract for the equipment. The initial contract was awarded to the Y Corporation pursuant to two-step advertising procedures but Y has not yet been able to meet the required reliability requirements. Accordingly, X was asked to conduct the development on a product improvement contract and X was awarded the second production contract.

(c) The X Corporation developed the equipment for the Air Force in 1949 and furnished all equipments to satisfy AF requirements through 1957. There were no procurements during 1958 and 1959. In early 1959, responsibility for procurement of the equipment was transferred to the Z Air Materiel Area. This is the second production contract for the equipment to be issued by Z; the first was dated June 30, 1961. By letter dated June 2, 1961, Commander of Z directed his inservice engineering office to develop a specification and procurement package suitable for competitive procurement. The development of said procurement package is underway and it is expected that it will entail one year of effort to complete. It is planned to complete future equipment requirements, possibly as soon as July 1, 1962.

(d) The equipment will be procured according to MIL-D-1489 (USAF). This specification is considered adequate for formal advertising; however, it is not possible to place this procurement by formal advertising because it is essential that the required delivery schedule be satisfied. An inexperienced producer could not possibly comply with the schedule because he would, of necessity, have to duplicate preparation already made as set forth under category 1 (subparagraph (1) of this paragraph). To obtain the necessary leadtime for future competitive procurement of this equipment, action will be taken to include this item in the December 1961 request for Pre-Buy release of the FY 63 program requirements. Also, the appropriate AMA has been requested to initiate their FY 62 requirements at the earliest practical date and to forward advance copies of "planning" purchase requests as soon as possible.

(c) Note that there are alternative combinations of circumstances which permit negotiation under 10 U.S.C. 2304(a)(14). All elements pertinent to such combinations, which are cited in the determinations and findings, must be substantiated in the accompanying request, otherwise they will not be included in the determinations and findings. In addition, where there has been substantial initial investment or extended period of preparation in the case of more than one supplier the above information will be furnished for each supplier. The authority provided by this section is intended primarily to apply where there is only one such supplier. It will generally not be available where there are more than three suppliers.

§ 1003.215 Negotiation after advertising.

§ 1003.215-50 Application.

The authority of 10 U.S.C. 2304(a)(15) can be invoked for all or only a portion of a specific procurement. Requests for determinations and findings to negotiate under this authority should state: (a) The range of bid prices received and reasons why these prices (or some of them) are deemed unreasonable, or (b) evidence that the bid prices have not been independently arrived at in open competition. The letter of transmittal will set forth the estimated cost of the proposed procurement.

§ 1003.215-51 Format.

Following is approved format for determinations and findings under 10 U.S.C. 2304(a)(15):

DEPARTMENT OF THE AIR FORCE

INDIVIDUAL DETERMINATIONS AND FINDINGS

Authority To Negotiate Contract

1. This procurement is for the modification of 8 B-36 Docks for KC-135 Aircraft.

2. I hereby find that the proposed procurement was solicited by advertising under Invitation for Bid F17600-67-B-1001, August 1, 1967. The only bid received offered a lump price of $268,660 for basic bid and $244,660 for alternate bid, which were considerably higher than the estimated project price. This difference is considered excessive as it exceeds the highest project estimated price by over $100,000.

3. Based on the findings above made, I hereby determine that the lowest rejected bid prices of a reasonable bidder obtained through advertising were $268,660 for basic bid and $244,660 for alternate bid and that such prices for this modification are not reasonable.

4. Upon the basis of the determinations and findings above, I hereby authorize the negotiation of a contract for this procurement pursuant to 10 U.S.C. 2304(a)(15), provided that prior notice of intention to negotiate, and a reasonable opportunity to negotiate, be given to each responsible bidder who submitted a bid in response to the invitation for bids, the negotiated prices be lower than the lowest rejected bids of a responsible bidder, as determined above, and the negotiated prices be the lowest negotiated prices offered by a responsible contractor.

§ 1003.216 Purchases in the interest of national defense or industrial mobilization.

§ 1003.216-50 Format.

There is no approved format for determinations and findings or of letters of transmittal, but those set forth under the other exceptions may be used as a guide. In preparing determinations and findings, the circumstances of the indi-

vidual case will dictate the determinations and findings as well as the justification to be included in the letter of transmittal. The letter of transmittal will show the estimated cost of the proposed procurement.

§ 1003.217 Otherwise authorized by law.

§ 1003.217–2 Application.

(a) Except as indicated in paragraphs (b) through (e) of this section, contracts will be negotiated under this authority only upon approval of the Secretary. Requests for approval will contain a statement of pertinent facts and reasons therefor, and will be transmitted according to § 1003.306.

(b) Transportation services by common carriers will be negotiated under authority of section 321, Part III, Interstate Commerce Act, September 18, 1940, 49 U.S.C. 65.

(c) Procurements negotiated pursuant to section 406 of Title IV of Public Law 345 (84th Congress).

(d) Blind-made supplies purchased through National Industries for the Blind as prescribed in § 5.504–1 of this title, will be negotiated under authority of the Act of June 25, 1938, c. 697, section 3, 52 Stat. 1196 (41 U.S.C. 48).

(e) Procurements negotiated pursuant to section 15, Small Business Act, 15 U.S.C. 644 (Public Law 536, 85th Congress, as amended).

Subpart C—Determinations and Findings

9. Section 1003.305 is amended by revising paragraph (a); and § 1003.306 is amended by revising paragraphs (a), (b), and (c) and adding a new subparagraph (5) to paragraph (d) as follows:

§ 1003.305 Forms of determinations and findings.

(a) *Determinations and findings; authority to enter into contracts by negotiation.* Sample formats for determinations and findings which will be made by the Secretary are included in §§ 1003.211, 1003.212, 1003.214, and 1003.215. These formats may be used for a guide for determinations and findings under §§ 1003.213, 1003.216, and 1003.217 to be made by the Secretary, and determinations and findings to be made by the contracting officer under §§ 1003.202, 1003.207, 1003.208, 1003.210, and 1003.211 (more than $2,500 but not more than $100,000).

* * * * *

§ 1003.306 Procedure with respect to determinations and findings.

(a) No implementation.

(b) Contracting officer's determinations and findings are subject to the following written approvals:

(1) Hq AFSC; AFSC centers and divisions; AFLC AMAs: The Director or Deputy Director of Procurement and Production, the Chief or Deputy Chief of Procurement and Production as applicable. This approval authority may not be redelegated for procurements estimated to be in excess of $350,000 but may be redelegated as follows:

(i) To the contracting officer for procurements estimated not to exceed $50,000. This includes procurements to be negotiated pursuant to §§ 3.202, 3.207, 3.208, and 3.210 of this title (excluding procurement under the authority of § 3.210–2 (m) and (o) of this title which exceed $10,000) and § 1003.211 excluding procurements exceeding $10,000 which are applicable to paragraph (d) of this section.

(ii) To any level higher than the contracting officer for any procurement which is estimated to be (*a*) in excess of $50,000 but not in excess of $350,000 and cites the authority of § 3.202, § 3.207, § 3.208, or § 3.210 of this title; or (*b*) in excess of $10,000 but not in excess of $350,000 and cites the authority of § 3.210–2 (m) or (o) of this title; or (*c*) in excess of $50,000 but not in excess of $100,000 and cites the authority of § 1003.211.

(2) Purchasing activities other than those in subparagraph (1) of this paragraph: The chief or deputy chief of the purchasing office. This approval authority is required for procurements estimated to exceed $10,000.

(c) Purchasing activities other than those stated in paragraph (b)(1) of this section: Chief or deputy chief of the purchasing office—procurements initially estimated to be in excess of $10,000.

(1) and (2) No implementation.

(3) Limitation: No person will exercise the authority redelegated in paragraph (b)(1)(ii) or (2) of this section if he is the contracting officer involved. This limitation does not apply to SPOs at ASD (or comparable organizations) where the chief of the SPO is the only contracting officer appointed for such SPO. In these instances, the determination and finding will indicate that the person executing the determination and finding is both the contracting officer and the chief of the SPO and no further approval of such determination and findings will be required.

(d) * * *

(5) Review and approval of determinations and findings will be forwarded by indorsement through all command levels.

* * * * *

§ 1003.306 [Amended]

10. In § 1003.306, the last sentence in paragraph (d)(3) is deleted.

Subpart D—Types of Contracts

§ 1003.410–2 [Amended]

11. In § 1003.410–2(d)(4), the words "Each fiscal year," are added at the beginning of the first sentence.

Subpart F—Small Purchases

12. Section 1003.608–7 is added; and § 1003.651 is deleted as follows:

§ 1003.608–7 Shipment shortages.

A final shipment may be accepted and the order completed without issuance of a modifying document when variation in quantity is not authorized if the shortage is negligible and the action will not impair the operation of the base (See paragraph 20705c, AFM 177–102 (Commercial Transactions at Base Level)).

§ 1003.651 Credit cards. [Deleted]

PART 1004—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart C—Contracts for Preparation of Household Goods for Shipment, Government Storage and Related Services

13. Section 1004.302–50 is amended by adding paragraph (b)(3) as follows:

§ 1004.302–50 BDO procedure.

* * * * *

(b) * * * (3) a contracting officer located in the transportation office.

(i) Individuals authorized to place calls, when in receipt of Special Orders authorizing movement of household goods and citing funds, will assume that funds have been committed for the packing and crating requirement incident to to the movement of the individual named in the Special Orders.

(ii) The person placing oral calls will establish a control record at the beginning of each month indicating the call number, name of individual for whom services are to be performed, date of placement of call, Special Order Number, voucher number, date payment was made, amount and accumulated expenditures. In no event will the sequence of call numbers be interrupted. The accumulated expenditure will be brought forward to the control record for the next month. At the end of each month the amount column should be totaled for reporting purposes.

(iii) [Reserved]

(iv) Prior to contacting the contractor to place a call, the individual authorized to place calls will be furnished a copy of the Special Order indicating the individual for whom services are to be ordered and a form letter in duplicate indicating date and place of pickup, estimated weight of household goods, special markings, destination, and any other information required incident to the services to be performed. On receipt of the above information, he will contact the contractor, establish a firm pickup date, and issue a call number from control records. This information will then be placed on a duplicate copy of the form letter and returned to the transportation officer who will use this information when preparing the Standard Form 1034. In addition, the transportation officer will keep the contracting officer informed of contractor performance on a daily basis to assure contractor compliance.

(v) Wherever possible, calls should be placed in the month in which services are to be performed. Services should be scheduled no more than 48 hours in advance if call is placed during the last 2 days of a month.

* * * * *

PART 1006—FOREIGN PURCHASES

Subpart A—Buy American Act; Supply and Service Contracts

§ 1006.103–2 [Amended]

14. Section 1006.103–2 is amended by deleting paragraph (h).

PART 1007—CONTRACT CLAUSES

Subpart FF—Clauses for Bakery and Dairy Products Contracts

15. Section 1007.3204–10 is deleted as follows:

§ 1007.3204–10 Price adjustments for subsidized ingredients. [Deleted]

Subpart GG—Clauses for Laundry or Dry Cleaning Contracts

16. Section 1007.3304–3 is deleted as follows:

§ 1007.3304–3 Alterations in contract. [Deleted]

PART 1053—CONTRACTS; GENERAL

17. Subpart X is deleted as follows:

Subpart X—Procurement of Recombined, Reconstituted, and Filled Milk at Oversea Installations [Deleted]

PART 1055—LOGISTIC SUPPORT ITEMS

Subpart B—Contractual Provisioning Documents

18. Section 1055.201 is revised; and § 1055.202 is amended by revising paragraph (a) as follows:

§ 1055.201 Applicability of subpart.

This subpart is applicable to all AF central procurement activities, i.e., AFSC Systems divisions/centers and AFLC air materiel areas.

§ 1055.202 Definitions.

(a) "Contractual provisioning document" is an authorized specific document incorporated in AF contracts, by reference or otherwise, to prescribe the procedures, terms, and conditions governing the determination of the range and quantity of items required, and the furnishing of initial support requirements to support and maintain an end article for its initial period of operation.

* * * * *

(Sec. 8012, 70A Stat. 488, secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 8012, 2301–2314, except as otherwise noted) [AFPI Revision No. 74, Jan. 31, 1967; AF Procurement Circulars No. 1, Feb. 6, 1967, and No. 2, Feb. 13, 1967]

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67–3899; Filed, Apr. 10, 1967; 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER D—MANAGEMENT OF WILDLIFE RESEARCH AREAS

PART 60—PATUXENT WILDLIFE RESEARCH CENTER

Patuxent Wildlife Research Center, Md.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 60.11 Special regulations; hunting and sport fishing.

Sport fishing will be permitted on the Patuxent Wildlife Research Center, Md. The open area is confined to Snowden Pond, comprising 7 acres as delineated on a map available at the Center headquarters and from the office of the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Black bass and sunfish.

(b) Open season: June 1, 1967, through September 30, 1967; official sunrise to official sunset only.

(c) Daily creel limits: Black bass, 5; sunfish, no limit.

(d) Methods of fishing:

(1) Hook and line tackle and baits permitted by Maryland law, except that no live minnows or other fish may be used for bait.

(2) The use of boats, canoes, and similar floating devices, without motors, is permitted. Launching of boats is permitted only in the area designated by signs.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on the Patuxent Wildlife Research Center which are set forth in Title 50, Code of Federal Regulations, Part 60.

(2) A Federal permit is required to fish. Anyone requesting a Federal permit must show evidence of having a Maryland State fishing license. A total of 150 permits will be issued in order of receipt of requests. Application should be made to the Director, Patuxent Wildlife Research Center, Laurel, Md. 20810. Each permit shall authorize the holder and members of his immediate family to fish.

(3) Each permittee is required to complete a fishing report form for each day fished, which will show the name of permittee, date of fishing, hours fished, type of bait used, and fish taken by species and size.

(4) The provisions of this special regulation are effective to October 1, 1967.

E. H. DUSTMAN,
Director, Patuxent Wildlife Research Center, Bureau of Sport Fisheries and Wildlife.

APRIL 5, 1967.

[F.R. Doc. 67–3912; Filed, Apr. 10, 1967; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 526]

SUGAR CANE PROCESSING AND MILLING IN FLORIDA

Operations on Perishable Agricultural Commodities

A determination is published in this issue of the FEDERAL REGISTER that the sugar cane processing and milling industry in the State of Florida as defined on October 18, 1951, in 16 F.R. 10807 and on April 7, 1961, in 26 F.R. 3304 is an industry of a seasonal nature within the meaning of section 7(c) of the Act and 29 CFR 526.2(a), so that it is listed in 29 CFR 526.10 as qualifying for the partial exemption from the overtime compensation provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 208) provided by its section 7(c).

Request has been made on behalf of the industry, citing the facts found in the litigation Wirtz v. Oceola Farms Co. (C.A. 5, 1967; 17 WH Cases 575) for an affirmative finding on the issue presented in 29 CFR 526.2(b) so that it will be determined that the exemption provided in section 7(d) of the Act applies, in addition to the one provided in section 7(c) (which is today determined to apply) and so that the industry will be listed in 29 CFR 526.12, instead of 526.10 as at present.

Pursuant to section 7(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(d)), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and General Order No. 45–A of the Secretary of Labor (15 F.R. 3290), it is proposed to make the determination and amend 29 CFR 526.10 and 526.12 in accordance with the request specified in the last paragraph. Part 526 of Title 29 of the Code of Federal Regulations will govern the procedure on this proposal. Interested persons are invited to participate in the proceedings through the submission of pertinent written data, views, and argument to the Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210, within 30 days after this notice appears in the FEDERAL REGISTER.

Signed at Washington, D.C., this 6th day of April 1967.

CLARENCE T. LUNDQUIST,
Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor.

[F.R. Doc. 67-3952; Filed, Apr. 10, 1967; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 37]

[Docket No. 8079; Notice No. 67-13]

TECHNICAL STANDARD ORDER

Maximum Allowable Airspeed Indicator; TSO–C46a

The Federal Aviation Administration is considering amending § 37.145 of the Federal Aviation Regulations by revising the Technical Standard Order (TSO–C46) for maximum allowable airspeed indicators. This amendment would establish a Federal Aviation Administration Standard for maximum allowable airspeed indicators which would replace and update the industry standards referenced in the present TSO.

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 docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. All communications received on or before July 7, 1967, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

A Federal Aviation Administration Standard is proposed for maximum allowable airspeed indicators in order to prescribe minimum performance standards for these instruments which are compatible with the increased airspeed of modern aircraft and the range of environmental conditions through which the instruments must perform their intended function.

Under this proposal, the operational speed range, and the temperature, altitude, and vibration ranges set forth in the present TSO would be modified to make these conditions more representative of the ranges through which the instrument must function.

Other changes would establish "knots" as the unit of reference for airspeed, and would permit vertical, horizontal and digital scales in addition to circular dials. In addition, the current requirement for an adjustable stop for limiting the movement of the maximum allowable airspeed pointer and a readily accessible means for setting the Mach Number would not be required under this proposal provided that the instrument was marked to show the stop setting and the value of the permanent Mach Number setting.

The equation for the indicated airspeed pointer set forth in the current TSO would be deleted and the appropriate data set forth in a new Table II of the proposed TSO. A new equation would be added for altitudes where the maximum allowable Mach is the limiting factor. Table II of the present TSO (Proposed Table I) would be revised to specify impact pressure in inches of mercury at 25° C., and to delete, as redundant, pressure in inches of water and pressure in pounds per square inch. In the proposed Table II (Table IV of the present TSO) the list of speeds has been eliminated since the tolerance is constant, and static pressure in inches of mercury corresponding to the specified altitudes has been added for the convenience of the applicant. The pertinent data set forth in present Table V has been incorporated into the performance standards of the proposed TSO and the Table has been eliminated.

The detailed test procedures of the current TSO would also be replaced by an objective standard under which the manufacturer would conduct the tests necessary to demonstrate proper design, and to assure instrument reliability while performing its intended function.

In consideration of the foregoing, it is proposed to amend § 37.145 of the Federal Aviation Regulations to read as follows:

§ 37.145 Maximum allowable airspeed indicators—TSO–C46a.

(a) *Applicability.* This technical standard order prescribes the minimum performance standards that maximum allowable airspeed indicators must meet in order to be identified with the applicable TSO marking. New models of the instrument that are to be so identified, and that are manufactured on or after the effective date of this TSO, must meet the requirements of the "Federal Aviation Administration Standard, Maximum Allowable Airspeed Indicators," set forth at the end of this section.

(b) *Marking.* In addition to the markings required by § 37.7, the instrument must be marked to indicate its range in knots, and, if applicable, the stop setting for limiting the movement of the maximum allowable airspeed pointer, and the value of the permanent Mach Number setting.

(c) *Data requirements.* In accordance with § 37.5, the manufacturer must furnish the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, in the region in which the manu-

facturer is located, the following technical data:

(1) Seven copies of the manufacturer's operating instructions, equipment limitations, and installation procedures; and

(2) One copy of the test report of the manufacturer.

(d) *Previously approved equipment.* Maximum allowable airspeed indicator models approved prior to the effective date of this section may continue to be manufactured under the provisions of their original approval.

FEDERAL AVIATION ADMINISTRATION STANDARD

MAXIMUM ALLOWABLE AIRSPEED INDICATORS

1. *Purpose.* This document specifies minimum performance standards for pitot-static type, maximum allowable airspeed indicators which indicate continuously both indicated airspeed and maximum allowable airspeed in the range between 50–650 knots.

2. *Performance requirements*—2.1 *General*—(a) *Materials.* Materials must be of a quality demonstrated to be suitable and dependable for use in aircraft instruments.

(b) *Environmental conditions.* The instrument must be capable of performing its intended function and not be adversely affected during or following prolonged exposure to the environmental conditions stated under section 3.

2.2 *Detail requirements*—(a) *Indicating means.* Indicated airspeed and maximum allowable airspeed must be displayed in such a manner that the numerical values on the scale increase in a clockwise, left to right, or bottom to top direction.

(b) *Case markings.* The outlets in the case must be marked with "P" for the pitot pressure connection, and with "S" for the static pressure connection.

2.3 *Design requirements*—(a) *Adjustable settings*—(1) *Maximum allowable airspeed pointer.* An adjustable stop may be provided in the instrument for limiting the movement of the maximum allowable airspeed pointer. If included, the design of this adjustment must be such that it will not affect the indication of the pointer when the altitude pressure conditions and Mach Number setting are such that the limiting speed will be lower than that set by the adjustable stop. If an adjustable stop is not provided in the instrument, the permanent stop setting must be included in the marking information required under § 37.145(b).

(2) *Mach Number.* If a readily accessible means is provided for setting the instrument to any desired Mach Number, the value of the setting must be visible from the front of the instrument. When the instrument does not contain an external Mach Number setting adjustment, the value of the permanent Mach Number setting need not be visible from the front of the instrument, but must be included in the instrument marking information required under § 37.145(b).

(b) *Visibility.* The indicating means and all markings must be visible from any point within the frustrum of a cone, the side of which makes an angle of at least 30 degrees with the perpendicular to the dial and the small diameter of which is the aperture of the instrument case. The distance between the dial and the cover glass must be a practical minimum.

(c) *Calibration*—(1) *Indicated airspeed pointer.* The indicated airspeed pointer must indicate airspeed in accordance with the values contained in Table I.

(2) *Maximum allowable airspeed pointer.* The maximum allowable airspeed pointer must indicate the maximum allowable airspeed in accordance with the following equations:

(i) Equation for altitudes from sea level to altitude where $V_M = M_M$ (See Figure 1):

$$V_M = C_o \sqrt{\frac{2}{k-1}\left\{\left[1+\frac{P}{P_o}\left[\left(\frac{V_{EM}^2}{5C_o^2}+1\right)^{\frac{k}{k-1}}-1\right]+1\right\}^{\frac{k-1}{k}}-1\right\}}$$

(ii) Equation for altitudes where M_M is the limiting factor (See Figure 1):

$$V_M = C_o \sqrt{\frac{2}{k-1}\left\{\left[\frac{P}{P_o}\left[\left(1+\frac{k-1}{2}\cdot M_M^2\right)^{\frac{k}{k-1}}-1\right]+1\right\}^{\frac{k-1}{k}}-1\right\}}$$

(iii) The following values are used:

V_i = Indicated airspeed in knots.
V_M = Maximum allowable indicated airspeed in knots.
V_{EM} = Maximum equivalent airspeed in knots.
M_M = Maximum allowable Mach.
C_o = Sea level speed of sound—661.48 knots.
P_o = Ambient static pressure in inches Hg.
k = Pressure at sea level = 29.92126" Hg.
q_c = Ratio of specific heats = 1.40 for air.
P = Impact pressure in inches Hg = Total pressure—static pressure.
σ = Density ratio at altitude.

(d) *Scale error*—(1) *Instruments with permanent Mach Number setting.* The indicated airspeed scale error and the maximum allowable airspeed scale error must not exceed the tolerances specified in Tables I and II, respectively, with the instrument set at its permanent Mach Number.

(2) *Instruments with means for external Mach Number setting adjustment.* (i) The indicated airspeed scale error must not exceed the tolerances specified in Table I with the instrument set at the lowest Mach Number.

(ii) The maximum allowable airspeed scale error must not exceed the tolerances specified in Table II with the instrument set at the lowest Mach Number and at increasing Mach Number setting of not more than 0.10 to and including the maximum Mach Number.

(e) *Hysteresis.* The reading of the maximum allowable airspeed pointer first at 30,000 feet altitude and then at 10,000 feet altitude must not differ by more than ±2 knots from the corresponding readings obtained for increasing altitudes during tests to assure the instrument complies with the scale error requirements of second 2.3(d)(2)(ii) of this TSO.

(f) *After effect.* To assure the instrument complies with the scale error requirements of section 2.3(d)(2)(ii) of this TSO, the maximum allowable airspeed pointer must return to its original readings, corrected for any change in atmospheric pressure, within ±3 knots, after not less than 1 or more than 5 minutes have elapsed following completion of performance tests.

(g) *Friction*—(1) *Maximum allowable airspeed pointer.* The friction of the pointer must not produce an error exceeding ±4 knots at each point indicated by an asterisk in Table II.

(2) *Indicated airspeed pointer.* The friction of the pointer must not produce an error exceeding ±3 knots at each point indicated by an asterisk in Table I.

(h) *Leak*—(1) *Case leak.* The pressure drop in the case must not exceed 0.05 inches of mercury for a period of one minute after a suction source which has applied a suction of 15 inches of mercury to the pitot and static pressure connections has been disconnected.

(2) *Airspeed diaphragm leak.* There must not be any apparent movement of the indicated airspeed pointer for one minute after a sequence of events in which pressure sufficient to produce full scale deflection of the indicated airspeed pointer is applied to the pitot connection (static pressure connection open to atmosphere), the pressure source is stopped, and the connection tubing pinched.

3. *Environmental conditions*—3.1 *Temperature.* The instrument must perform its intended function over the range of ambient temperature from −30° to 70° C. With the instrument temperature stabilized at the limits of the range, the scale error must not exceed by more than 4.5 knots the tolerances specified in Tables I and II at the points marked with an asterisk. The instrument must not be adversely affected by exposure to the range of ambient temperature from −65° to 70° C.

3.2 *Altitude.* The instrument must perform its intended function and must not be adversely affected when subjected to a pressure/temperature range corresponding to the range between −1,000 feet and 50,000 feet standard altitude per U.S. Table of Standard Atmosphere 1962. The instrument must withstand an external case pressure of 50" Hg absolute when installed properly and vented to an atmospheric pressure of approximately 29.92" Hg absolute.

3.3 *Vibration.* The instrument must perform its intended function and must not be adversely affected when subjected to vibrations of the following characteristics:

Instrument location	Frequency cycles per second	Maximum double amplitude inches	Maximum acceleration
Instrument panel	5-30	0.020	----------
Instrument panel-shock mounted	30-1000	----------	0.25g
Airframe structure mounted	5-500	.036	10g

3.4 *Humidity.* The instrument must perform its intended function and must not be adversely affected when exposed to any relative humidity in the range from 0 to 95 percent at a temperature of approximately 70° C.

4. *Compliance tests.* As evidence of compliance with this standard, the manufacturer must perform evaluation tests on prototype instruments to demonstrate proper design, reliability in performance of its intended functions, and conformity with the performance standards of section 2. Tests and test procedures employed for this purpose must reasonably demonstrate the absence of any adverse effect on the performance of the instrument due to the following factors: Pressure and altitude changes, humidity changes, high and low temperature conditions, airplane vibrations, and prolonged operational usage.

5. *Individual performance tests.* The manufacturer must conduct such tests as may be necessary on each instrument to assure that it will meet the minimum performance requirements of sections 2.3(b) through 2.3(h).

TABLE I

Speed knots	Impact pressure inches of mercury at 25° C.	Tolerance knots
50	0.1198	±4.0
*60	0.1727	2.0
80	0.3073	2.0
*100	0.4814	2.0
120	0.6950	2.0
*150	1.091	2.5
180	1.580	3.0
*200	1.959	3.0
220	2.610	3.0
*250	3.100	3.0
280	3.924	3.5
*300	4.534	3.5
320	5.195	3.5
*350	6.286	4.0
370	7.082	4.5
*400	8.385	5.0
430	9.826	5.5
*450	10.87	6.0
480	12.96	7.0
*500	13.78	7.0
520	15.07	7.0
*550	17.16	8.5
570	18.66	8.5
*600	21.07	9.0
630	23.71	9.5
*650	25.59	10.0

TABLE II

Altitude feet	Pressure inches mercury	Max speed pointer tolerance ±knots
0	29.921	**4
*5,000	24.896	**4
10,000	20.577	**4
*15,000	16.886	**4
20,000	13.750	**4
*25,000	11.104	**4
30,000	8.885	**4
*35,000	7.041	**4
40,000	5.538	**4
*45,000	4.355	**4
50,000	3.425	**4

**From indicated airspeed corresponding to maximum equivalent airspeed or maximum mach whichever is the limiting factor.

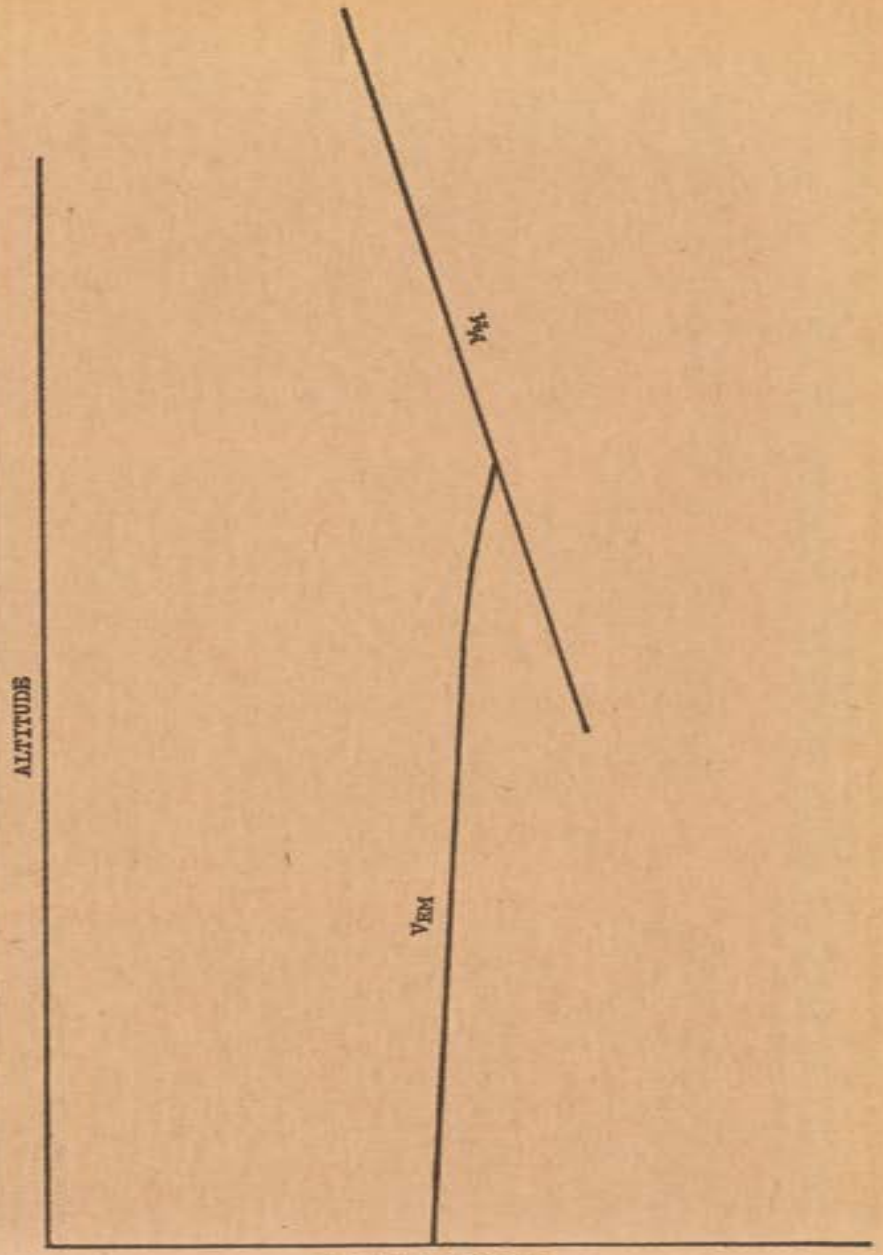


FIGURE I—Typical curve showing movement of V_M pointer.

This amendment is proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421).

Issued in Washington, D.C., on April 4, 1967.

JAMES F. RUDOLPH,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-3873; Filed, Apr. 10, 1967; 8:45 a.m.]

[14 CFR Part 23]

[Docket No. 8083; Notice 67-14]

SMALL AIRPLANES

Type Certification Standards

The Federal Aviation Administration is considering amending Part 23 of the Federal Aviation Regulations to revise the type certification standards for small airplanes. On October 25 through 29, 1965, the then Federal Aviation Agency held an Agency-Industry conference to review regulations dealing with the manufacture of small airplanes. The conference agenda included numerous type certification items of possible regulatory significance. Those items that the Administrator considers appropriate for immediate rule making action are proposed in this notice, together with proposals developed by the FAA and not covered at the conference.

Interested persons are invited to participate in the making of these proposed rules by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20553. All communications received on or before July 8, 1967, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

FLIGHT PROPOSALS

Proposal 1. Landing demonstration for aircraft of more than 6,000 pounds maximum weight (*§ 23.75(a)*). Section 23.75 (a) would be amended by—

a. Striking out the figure "1.5" between the words "least" and "must" in § 23.75(a)(1) and inserting the figure "1.4" in place thereof;

b. Adding a new § 23.75(a) (4) and (5) reading as follows:

§ 23.75 Landing.

(a) * * *

(4) It must be shown that a safe transition to the balked landing conditions of § 23.77 can be made from the conditions that exist at the 50-foot height.

(5) Changes in configuration, power or thrust, and speed must be made in accordance with procedures established under § 23.1585.

* * * * *

Explanation. The reduction from $1.5V_{s_1}$ to $1.4V_{s_1}$ is proposed because experience has shown that the landing distance can be safely demonstrated and duplicated, without exceptional piloting skill or exceptionally favorable conditions, at speeds down to $1.4V_{s_1}$ provided the selected speed is great enough to allow a safe transition to the balked landing conditions of § 23.77 from the conditions established for the 50-foot height. Since the landing and balked landing procedures may be more critical at the lower airspeed, those procedures would be specifically added to the operating procedures portion of the Airplane Flight Manual (see Proposal 10 amendment of § 23.1585) and the entire paragraph (a) would be made subject to those procedures (proposed (a)(5)).

Proposal 2. Weights and landing conditions for demonstration of flight characteristics (*§ 23.141*). In § 23.141, paragraphs (b) and (c) would be deleted, and paragraph (a) would be editorially revised accordingly.

Explanation. Section 23.21 requires that each requirement in Subpart B must be met at each "appropriate combination of weight and center of gravity within the range of loading conditions for which certification is requested." The quoted words include all critical loading conditions and the highest weight for which certification is requested. Therefore, § 23.141 (b) and (c) are surplus. Further, literal compliance with § 23.141 (b) and (c) would require that certain flight requirements be shown, at the maximum altitude for which certification is requested (which is a "normally expected operation altitude"), with the highest weight for which certification is requested. This is an unnecessary burden that is not intended under § 23.141.

Proposal 3. Propeller position for demonstration of minimum control speed (*§ 23.149(a)*). Section 23.149(a) would be amended by adding the following new subparagraph (5):

§ 23.149 Minimum control speed.

(a) * * *

(5) The propeller of the inoperative engine—

(i) Windmilling, with the propeller speed or pitch control in the takeoff position; or

(ii) Feathered, if the airplane has an automatic feathering device and the feathering function is shown to be reliable.

* * * * *

Explanation. Section 23.149(a) describes the conditions under which the minimum control speed must be determined. Propeller position is an important such condition since the minimum control speed may be reduced if propeller feathering is allowed. Section 23.149 (a) does not specify propeller position. If an automatic feathering device is used, and its feathering function has been shown to be reliable, no adverse effect on safety will result if the minimum control speed is determined with the propeller on the inoperative engine feathered. In other cases, safety requires that the minimum control speed be determined with the propeller windmilling.

Proposal 4. Demonstration of longitudinal trim (*§ 23.161(c)*). Subparagraphs (3), (4), and (5), of § 23.161(c) would be amended to read as follows:

§ 23.161 Trim.

* * * * *

(c) *Longitudinal trim.* * * *

(3) A power approach with a three degree angle of descent, the landing gear extended, flaps retracted and—

(i) A speed of $1.4V_{s_1}$, for airplanes of 6,000 pounds or less maximum weight; or

(ii) The speed used under § 23.75(a), for airplanes of more than 6,000 pounds maximum weight;

(4) A power approach with a 3 degree angle of descent, the landing gear extended, the most forward center of gravity approved for the maximum weight, and—

(i) A speed of $1.4V_{s_1}$ with flaps extended, for airplanes of 6,000 pounds or less maximum weight; or

(ii) The speed and flap position used under § 23.75(a), for airplanes of more than 6,000 pounds maximum weight; and

(5) A power approach with a 3 degree angle of descent, the landing gear extended, the most forward center of gravity approved for any weight, and—

(i) A speed of $1.4V_{s_1}$ with flaps extended, for airplanes of 6,000 pounds or less maximum weight; or

(ii) The speed and flap position used under § 23.75(a) for airplanes of more than 6,000 pounds maximum weight.

* * * * *

Explanation. Two changes would be made under this proposal:

(1) The speed $1.5V_{s_1}$ would be reduced to $1.4V_{s_1}$ for power approaches with airplanes of 6,000 pounds or less maximum weight. Under Proposal 1, above, it is expected that most airplanes with maximum weights of over 6,000 pounds will demonstrate landing distance at the minimum permissible airspeed under that proposal, which is $1.4V_{s_1}$. No approach speed is currently specified for airplanes of 6,000 pounds or less maximum weight. There is no reason to require airplanes with maximum weights over and under 6,000 pounds to demonstrate longitudinal trim at different approach speeds solely because of the weight difference. This is the reason for specifying $1.4V_{s_1}$ for airplanes of 6,000 pounds or less maximum weight.

(2) For airplanes of over 6,000 pounds maximum weight, this proposal would

recognize that, while most airplanes will demonstrate landing distance under § 23.75(a) at $1.4V_{s_1}$, it is possible that a higher airspeed may be necessary for compliance with all of § 23.75(a), particularly the transition-to-balked-landing requirement of proposed (a)(5). For these airplanes, as for airplanes of 6,000 pounds or less maximum weight, the longitudinal trim should be demonstrated at the speed at which the landing distance is determined. In addition, for airplanes of over 6,000 pounds maximum weight, the present requirement for extended flaps does not necessarily reflect the representative power approach flap position. The representative flap position is that used during demonstrations of landing distance under § 23.75 (a). This flap position would therefore be specified for demonstration of longitudinal trim for power approaches with those aircraft.

Proposal 5. Static longitudinal stability (§ 23.175). Section 23.175 would be amended to read as follows:

§ 23.175 Demonstration of static longitudinal stability.

Static longitudinal stability must be shown as follows:

(a) *Climb.* The stick force curve must have a stable slope, at speeds between 85 and 115 percent of the trim speed, with—

(1) Flaps in the climb position;

(2) Landing gear retracted;

(3) 75 percent of maximum continuous power for reciprocating engines or the maximum power or thrust selected by the applicant as an operating limitation for use during climb for turbine engines; and

(4) The airplane trimmed for V_Y or the climb speed recommended by the applicant.

(b) *Cruise.* Static longitudinal stability must be shown in the cruise condition as follows:

(1) With the landing gear retracted at high speed, the stick force curve must have a stable slope at all speeds within a range that is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 40 knots plus the resulting free return speed range, above and below the trim speed (except that the speed range need not include speeds that require a stick force of more than 40 pounds), with—

(i) Flaps retracted;

(ii) 75 percent of maximum continuous power for reciprocating engines or, for turbine engines, the maximum cruising power or thrust selected by the applicant as an operating limitation, except that the power need not exceed that required at V_{LE}; and

(iii) The airplane trimmed for level flight.

(2) With the landing gear retracted at low speed, the stick force curve must have a stable slope under all the conditions prescribed in subparagraph (1) of this paragraph except that power for maximum range must be used.

(3) With the landing gear extended, the stick force curve must have a stable slope at all speeds within a range from 15 percent of the trim speed plus the resulting free return speed range below the trim speed, to the trim speed (except that the speed range need not include speeds less than $1.4V_{s_1}$ nor speeds greater than V_{LE}, nor speeds that require a stick force of more than 40 pounds), with—

(i) Flaps retracted;

(ii) Power required for level flight at V_{LE}; and

(iii) The airplane trimmed for level flight.

(c) *Approach and landing.* The stick force must have a stable slope at all speeds between $1.1V_{s_1}$ and $1.8V_{s_1}$ with—

(1) Landing gear extended;

(2) The airplane trimmed at—

(i) $1.4V_{s_1}$, with flaps extended (for airplanes of 6,000 pounds or less maximum weight); or

(ii) The approach speed used under § 23.75(a)(1) with flaps in the approach position used under § 23.75(a) (for airplanes of more than 6,000 pounds maximum weight); and

(3) Enough power to maintain a 3 degree angle of descent.

Explanation. Paragraphs (a) and (b) of § 23.175 now require that a stable stick force be shown over ranges of speed values defined solely in relation to V_{s_1}. For modern high speed airplanes, the specified speed ranges may be so wide as to be unrepresentative of actual operation since the airplane would, in normal operation, be retrimmed at a smaller departure from trim speed. For transport category airplanes, this problem has been satisfactorily met by specifying a representative departure from the trim speed in terms of percent of trim speed. For small airplanes as well as for transport category airplanes, 15 percent above and below trim speed is representative of the departures beyond which the airplane would be retrimmed in the climb condition. For the cruise condition, representative departures include speeds within either 15 percent of the trim speed plus the free return speed or 40 knots plus the free return speed.

Paragraph (a)(1) would be amended by requiring flaps to be in the "climb position" rather than retracted, since some position other than retracted may be more representative of the climb flap position used on airplanes with wide speed ranges.

The reference to "maximum weight" throughout § 23.175 would be deleted as surplus since § 23.21(a) requires compliance at each appropriate combination of weight and center of gravity.

In order to accommodate turbine engines, the present requirement of 75 percent power in paragraphs (a) and (b) of § 23.175 would be specifically restricted to reciprocating engines, and the maximum power or thrust selected by the applicant as an operating limitation for climb would be added for turbine engines.

The trim speed for static longitudinal stability in climb would be changed from $1.4V_{s_1}$ to either V_Y or the recommended climb speed because (1) the speed $1.4V_{s_1}$ may not be representative of the climb speeds of relatively high speed airplanes, and (2) the speed V_Y and the recommended climb speed are by definition representative of the climb speeds of all airplanes, regardless of their speed range.

The investigation of the cruise condition would be further changed by requiring a showing of a stable stick force not only at 75 percent power (or corresponding power or thrust for turbine engines) for high speed cruise, but also at the power for maximum range. Here, again, the speed range of modern airplanes is becoming so great that to require stability to be shown over the whole cruise range when trimmed for one cruise speed is unduly severe and is unrepresentative of actual practice, which typically involves two main cruise conditions, the high speed cruise and the maximum range cruise.

The landing gear extended cruise condition would be amended consistent with the amendment proposed for the high (and low) speed cruise conditions. This invloves incorporation of the speed departure range and the 40-pound stick force factor. The requirement of flaps retracted would involve no substantive change from the present rule nor would the requirement for power and trim for V_{LE} in level flight. Paragraph (c) would be amended in two main respects: First, the speed and flap positions used under § 23.75(a) would be referred to in order to make the approach and landing stability investigation consistent with the approach trim investigation in § 23.161 (c) which, under Proposal 2, would also cross reference § 23.75(a). Second, the 40-pound stick force limit would be deleted since § 23.143 prescribes control force values that prevent excessive stick forces.

Proposal 6. Normal category spin recovery (§ 23.221(a)). Paragraph (a) of § 23.221 would be amended by inserting the words "or a 3-second spin, whichever takes longer" between the words "one-turn spin" and the words "in not more than".

Explanation. The purpose of the spin recovery requirement is to ensure that recovery can be accomplished from a point that is as far into the spin as the average pilot would permit a spin to develop inadvertently before recovery use of the controls is begun. When the present rule was adopted, representative turn rates for the first turn were generally low enough so that recovery would normally be begun by completition of the first turn. The trend, however, is for design features that result in greater turn rates in spins. Thus the point for beginning recovery cannot be meaningfully described in terms of the first turn alone, but must also be determined by reference to a time value that is conservatively representative of the expected piloting response to inadvertent spin entry. Three seconds is believed to be such a value.

Proposal 7. Acrobatic category spin recovery (§ 23.221(c)). Paragraph (c) of § 23.221 would be amended by—

a. Striking out the words "must be able to spin at least six turns and" between

the words "an acrobatic category airplane" and the words "must meet"; and

b. Amending subparagraph (1) to read as follows:

§ 23.221 Spinning.

* * * * *

(c) *Acrobatic category.* * * *

(1) The airplane must recover from any point in a spin, in not more than one and one-half additional turns after normal recovery application of the controls. Prior to normal recovery application of the controls, the spin test must proceed for six turns or 3 seconds, whichever takes longer, with flaps retracted, and one turn or 3 seconds, whichever takes longer, with flaps extended. However, beyond 3 seconds, the spin may be discontinued when spiral characteristics appear with flaps retracted.

* * * * *

Explanation. The main effect of this proposal would be to eliminate the requirement that the airplane be capable of spinning a minimum number of turns. Safety does not require that the airplane be able to spin, but only that recovery be possible from any spin within the ability of the airplane. For airplanes capable of many turns, the present values of six turns and one turn, for flaps retracted and extended, respectively, remain appropriate limits beyond which recovery need not be investigated for intentional spins. However, for inadvertent spins, the time of spin development for acrobatic category airplanes should not be less than that of normal category airplanes which must, under Proposal 6, above, be investigated for a time duration representative of normal piloting response, namely, 3 seconds.

Since the 3-second period is representative of normal piloting response time, this proposal would specify that each spin may be discontinued when spiral characteristics appear beyond the 3-second period where six turns are required (flaps retracted). However, for the flaps extended case, safety requires that the one full turn be performed, even if it takes longer than 3 seconds, regardless of spiral characteristics.

Proposal 8. Stall warning speeds and means (§ 23.207). Section 23.207 would be amended to read as follows:

§ 23.207 Stall warning.

(a) There must be a clear and distinctive stall warning, with the flaps and landing gear in any normal position, in straight and turning flight.

(b) The stall warning may be furnished either through the inherent aerodynamic qualities of the airplane or by a device that will give clearly distinguishable indications under expected conditions of flight. However, a visual stall warning device that requires the attention of the crew within the cockpit is not acceptable by itself.

(c) The stall warning must begin at a speed exceeding the stalling speed by a margin of not less than 5 knots but not more than 15 knots. In addition—

(1) For each condition investigated under paragraph (a) of this section, the stall warning margin above the stalling speed for that condition must be within 5 knots of the stall warning margin above the stalling speed for every other condition investigated under paragraph (a) of this section.

(2) When stall warning begins, it must continue until the stall occurs.

Explanation. Section 23.207 now requires that stall warning occur between 5 and 10 miles per hour above the stalling speed for each condition. This results in a spread, between the margins above the stalling speeds for every condition, of not more than 5 miles per hour. This narrow spread is desirable since it gives initial stall warning the same meaning to the pilot under all conditions. Except for the change to knots (consistent with the general change to nautical units being made throughout the regulations) this speed spread would be specifically preserved in proposed § 23.207 (c)(1). However, notwithstanding the desirability of a narrow speed spread between conditions, experience has shown that the range of allowable speed margins above stalling speed for each condition should be broadened for high speed aircraft, for which even a 10-m.p.h. warning may be proportionately very small and of limited value as a true warning. For slow airplanes, on the other hand, a slightly greater margin than that presently allowed would not be inconsistent with safety. For all airplanes, it is believed that an increase in the maximum allowable margin above stall to 15 knots will avoid any unnecessary penalty associated with the present narrow stall warning margins that result from a 10-m.p.h. limit, while providing a margin that is still narrow enough to prevent stall warning from invading the area of normal operation and thus losing its effectiveness as a true warning or alarm.

Proposal 9. Warning, caution, and advisory lights (new § 23.1322). New § 23.1322 would be added to read as follows:

If warning, caution, or advisory lights are used, they must be—

(a) Red, for warning lights (lights indicating a hazard requiring immediate corrective action);

(b) Amber, for caution lights (lights indicating the possible need for future corrective action); and

(c) Green, for advisory lights (lights used solely for information not indicating the need for corrective action).

Explanation. The use of lights on airplanes as sources of information is becoming common. There is little color standardization in this area. It is believed that standardization may be necessary for safety.

Proposal 10. Airspeed placards, markings, and information (§§ 23.1563, 23.1583, and 23.1585). 1. Section 23.1563 would be amended to read as follows:

§ 23.1563 Airspeed placards.

There must be an airspeed placard in clear view of the pilot and as close as practicable to the airspeed indicator. This placard must list—

(a) The design maneuvering speed V_A; and

(b) The maximum landing gear operating speed V_{LO}.

Explanation. There is generally not enough space, close to the airspeed indicator, for placard information that is not essential for safe operation of the airplane. Regardless of airplane weight (over or under 6,000 pounds maximum weight), the two speeds that are not currently marked on the airspeed indicator but that are essential to safe operation of the airplane are the maximum speed for landing gear operation V_{LO} and the design maneuvering speed (V_A). Safety requires that these speed values remain clearly posted within the pilot's line of vision next to the appropriate instrument. This proposal also deletes the maximum speed with landing gear extended (V_{LE}) from the required airspeed placard. This speed can be safely furnished as an operating limitation solely (see Proposal (2) below). The other speeds now prescribed in § 23.1563 may be safely recorded elsewhere than on valuable placard space.

2. Section 23.1583(a) would be amended to read as follows:

§ 23.1583 Operating limitations.

(a) *Airspeed limitations.* The following information must be furnished:

(1) Information necessary for the marking of the airspeed limits on the indicator as required in § 23.1545, and the significance of each of those limits and of the color coding used on the indicator.

(2) The speeds V_A, V_{LE}, and V_{LO} and their significance.

* * * * *

Explanation. Since V_A and V_{LO} will continue to appear on a placard close to the airspeed indicator, and since these speeds, being the only speeds on the placard, would be prominently displayed on the placard, it is unnecessary to require that these speeds also be marked on the airspeed indicator itself as is now required. However, it is intended that these speeds continue to be furnished as operating limitations, and that the maximum speed with landing gear extended (V_{LE}), which is no longer necessary on the airspeed placard of § 23.1563 (see Proposal (1) above) be similarly furnished.

3. Section 23.1585 would be amended by adding the words "including the demonstrated crosswind velocity and procedures and information pertinent to operation of the airplane in crosswinds" at the end of paragraph (a), and by amending paragraph (b) to read as follows:

§ 23.1585 Operating procedures.

* * * * *

(b) For airplanes of more than 6,000 pounds maximum weight, the airspeeds, procedures, and information pertinent to the use of the following airspeeds must be furnished:

(1) The recommended climb speed;

(2) V_X; and

(3) The approach speeds, including speeds for transition to the balked landing condition.

* * * * *

Explanation. For all airplanes, § 23.1585(a) now requires that the Airplane Flight Manual must contain all pertinent procedures and information "necessary for safe operation." Insofar as crosswind procedures and velocities are necessary for safe operation, this information must already be furnished and no substantive change would result. However, since the demonstrated crosswind velocity is being removed from the placard requirement of § 23.1563, this information would be specifically added to § 23.1585(a) to avoid any inference that pertinent crosswind information is not "necessary for safe operation."

For airplanes of more than 6,000 pounds maximum weight, § 23.1585(b) now requires that the Airplane Flight Manual must contain all pertinent procedures and information concerning the speeds prescribed in the airspeed placard requirement of § 23.1563(b). While the recommended climb speed, V_X, and the approach speeds would be deleted from the airspeed placard (see above), it is not the intent of this proposal to remove them from the Airplane Flight Manual. The reference to speeds for balked landing would be added consistent with flight Proposal 1.

Proposal 11. Airplane Flight Manual: performance information (§ 23.1587). A new § 23.1587(c)(3) would be added to read as follows:

§ 23.1587 Performance information.

* * * * *

(c) *Multiengine airplanes.* * * *

(3) The calculated approximate effect, on the steady rate of climb determined under § 23.67(b), of variations in—

(i) Altitude from sea level to 8,000 feet in a standard atmosphere; and

(ii) Temperature, at those altitudes, from 60° F. below standard to 40° F. above standard.

Explanation. For multiengine airplanes of 6,000 pounds or less maximum weight, the value of the rate of climb information determined under § 23.67(b) is compromised since there is no requirement that this information be recorded. So far as the calculated effect of altitude and temperature is concerned, this proposal would accomplish, for multiengine airplanes of 6,000 pounds or less maximum weight, what is accomplished for multiengine airplanes of more than 6,000 pounds maximum weight by § 23.1587(b)(6). These calculations are important for the safe operation of the aircraft regardless of weight. Consistent with proposed new § 23.1587(c)(3)(ii), the words "minus" and "plus" would be deleted, as unnecessary, from § 23.1587(b)(6)(ii).

Proposal 12. Flight load factors as information rather than as operating limitations (New § 23.1591). a. Section 23.1581 would be amended by striking out the reference "23.1589" wherever it is used, and inserting the reference "23.1591" in place thereof.

b. Section 23.1583(f) would be deleted, and a new § 23.1591 would be added to read as follows:

§ 23.1591 Flight load factor information.

The positive limit load factors, in g's, must be furnished.

Explanation. While the established positive limit load factors are part of the type design and should continue to be furnished as information concerning the type design, the present requirement that the load factors be listed as operating limitations is not realistic since inflight recording of acceleration loads is not required.

AIRFRAME PROPOSALS

Proposal 1. Minimum weight for turbojet powered airplanes (§ 23.25(b)(4)). Section 23.25(b)(4) would be amended to read as follows:

§ 23.25 Weight limits.

* * * * *

(b) *Minimum weight.* * * *

(4) The weight of—

(i) For turbojet powered airplanes, 5 percent of the standard fuel capacity; and

(ii) For other airplanes, the fuel necessary for one-half hour of operation at maximum continuous power.

Explanation. The current requirement of one-half hour of fuel at maximum continuous power, while satisfactory for turbopropeller and reciprocating engine powered airplanes, is unrealistic and unconservative for turbojet powered airplanes. For those airplanes, this proposal would apply a standard that provides a reasonable relief from the need to consider a zero fuel weight condition and also provides a reasonable minimum weight fuel criterion.

Proposal 2. Design dive and operating speeds (§§ 23.253, 23.335, 23.1505, and 23.1545). 1. A new § 23.253 would be added to read as follows:

§ 23.253 High speed characteristics.

If a maximum operating speed V_{MO}/M_{MO} is established under § 23.1505(c), the following speed increase and recovery characteristics must be met:

(a) Operating conditions and characteristics likely to cause inadvertent speed increases (including upsets in pitch and roll) must be simulated with the airplane trimmed at any likely cruise speed up to V_{MO}/M_{MO}. These conditions and characteristics include gust upsets, inadvertent control movements, low stick force gradient in relation to control friction, passenger movement, leveling off from climb, and descent from Mach to airspeed limit altitude.

(b) Allowing for pilot reaction time after effective inherent or artificial speed warning occurs, it must be shown that the airplane can be recovered to a normal altitude and its speed reduced to V_{MO}/M_{MO}, without—

(1) Exceptional piloting strength or skill;

(2) Exceeding V_D/M_D, the maximum speed shown under § 23.251, or the structural limitations; or

(3) Buffeting that would cause structural damage.

(c) There may be no control reversal about any axis at any speed up to the maximum speed shown under § 23.251. Any reversal of elevator control force or tendency of the airplane to pitch, roll, or yaw must be mild and readily controllable, using normal piloting techniques.

2. A new § 23.335(a)(3) would be added to read as follows:

§ 23.335 Design airspeeds.

* * * * *

(a) * * *

(3) At altitudes where an M_D is established, a cruising speed M_C limited by compressibility may be selected.

* * * * *

3. Section 23.335(b)(1) would be amended by deleting the words "with $V_{C\ min}$ the required minimum design cruising speed", and §§ 23.335(b)(1)(i) through (iii) would be amended by changing "$V_{C\ min}$" to "V_C".

4. A new § 23.335(b)(3) would be added to read as follows:

§ 23.335 Design airspeeds.

* * * * *

(b) * * *

(3) Compliance with subparagraph (1) of this paragraph need not be shown if V_D/M_D is selected so that V_C/M_C is no greater than 0.8 V_D/M_D, or if V_D/M_D is selected so that the minimum speed margin between V_C/M_C and V_D/M_D is the greater of the following:

(i) The speed increase resulting when, from the initial condition of stabilized flight at V_C/M_C, the airplane is assumed to be upset, flown for 20 seconds along a flight path 7.5 degrees below the initial path, and then pulled up with a load factor of 1.5 (0.5g acceleration increment). At least 75 percent maximum continuous power for reciprocating engines, and maximum cruising power for turbines, or, if less, the power required for V_C/M_C for both kinds of engines, must be assumed until the pullup is initiated, at which point power reduction and pilot-controlled drag devices may be used.

(ii) Mach 0.05.

* * * * *

4. A new § 23.1505(c) would be added to read as follows:

§ 23.1505 Airspeed limitations.

* * * * *

(c) Paragraphs (a) and (b) of this section do not apply to aircraft for which a design diving speed V_D/M_D is established under § 23.335(b)(3). For those aircraft, a maximum operating limit speed (V_{MO}/M_{MO}-airspeed or Mach number, whichever is critical at a particular altitude) must be established as a speed that may not be deliberately exceeded in any regime of flight (climb, cruise, or descent) unless a higher speed is authorized for flight test or pilot training operations. V_{MO}/M_{MO} must be established so that it is not greater than the design cruising speed V_C/M_C and so that it is sufficiently below V_D/M_D and the maximum speed shown under § 23.251 to

make it highly improbable that the latter speeds will be inadvertently exceeded in operations. The speed margin between V_{MO}/M_{MO} and V_D/M_D or the maximum speed shown under § 23.251 may not be less than that established between V_C/M_C and V_D/M_D under § 23.335(b)(3), or found necessary in the flight tests conducted under § 23.253.

5. A new § 23.1545(d) would be added to read as follows:

§ 23.1545 **Airspeed indicator.**

* * * * *

(d) Paragraphs (b) (1) through (3) and (c) of this section do not apply to aircraft for which a maximum operating speed V_{MO}/M_{MO} is established under § 23.1505(c). For those aircraft there must either be a maximum allowable airspeed indication showing the variation of V_{MO}/M_{MO} with altitude or compressibility limitations (as appropriate), or the following markings must be made:

(1) For V_{MO}/M_{MO} a radial red line.

(2) For the normal operating range, a green arc with the lower limit at V_{S_1} at maximum weight and with wing flaps retracted, and the upper limit at V_{MO}/M_{MO}.

Explanation. For high performance aircraft, the current design airspeed requirements are unduly restrictive, particularly the requirement that V_d be no less than 1.40 times V_C. For high performance aircraft, a more rational basis for selecting design speeds is necessary to permit smaller spreads between V_C and V_d. Provision for design speeds limited by compressibility should also be made. This amendment would accomplish this result for high performance aircraft without affecting the current design airspeed requirements for applicants who still wish to comply with them.

Proposal 3. Mass parameter method of gust load investigation (§§ 23.333, 23.341, 23.345, 23.425, 23.443, and A23.3). 1. Section 23.333 would be amended by striking out paragraph (c), by changing the heading of paragraph (d) to "Gust envelope", and by amending the envelope of paragraph (d) as follows, consistent with the gust envelope in § 25.333(c) of Part 25:

a. Each curve would include the identification "gust line for."

b. The symbols "+30 (fps gust)", "+15K", "−15K", and "−30K" would be amended, respectively, to read "V_C speed", "V_D speed", "V_D speed", and "V_C speed."

2. Section 23.341 would be amended to read as follows:

§ 23.341 **Gust loads.**

(a) The airplane is assumed to be subjected to symmetrical vertical gusts in level flight. The resulting limit load factors must correspond to the conditions determined as follows:

(1) Positive (up) and negative (down) gusts of 50 fps at V_C must be considered at altitudes between sea level and 20,000 feet. The gust velocity may be reduced linearly from 50 fps at 20,000 feet to 25 fps at 50,000 feet.

(2) Positive and negative gusts of 25 fps at V_D must be considered at altitudes between sea level and 20,000 feet. The gust velocity may be reduced linearly from 25 fps at 20,000 feet to 12.5 fps at 50,000 feet.

(b) The following assumptions must be made:

(1) The shape of the gust is—

$$U=\frac{U_{ds}}{2}\left(1-\cos\frac{2\pi s}{25\bar{C}}\right)$$

where—

s=distance penetrated into gust (ft.);
$\bar{C}$=mean geometric chord of wing (ft.); and
U_{ds}=derived gust velocity referred to in paragraph (a) (fps).

(2) Gust load factors vary linearly with speed between V_C and V_D.

(c) In the absence of a more rational analysis, the gust load factors must be computed as follows:

$$n=1+\frac{K_g U_{de} V a}{498(W/S)}$$

where—

$K_g=\frac{0.88\mu_g}{5.3+\mu_g}$=gust alleviation factor;

$\mu_g=\frac{2(W/S)}{\rho\, \bar{C} a g}$=airplane mass ratio;

U_{de}=derived gust velocities referred to in paragraph (a) (fps);
ρ=density of air (slugs/cu. ft.);
W/S=wing loading (psf);
$\bar{C}$=mean geometric chord (ft.);
g=acceleration due to gravity (ft./sec.^{2});
V=airplane equivalent speed (knots); and
a=slope of the airplane normal force coefficient curve C_{N_A} per radian if the gust loads are applied to the wings and horizontal tail surfaces simultaneously by a rational method. The wing lift curve slope C_L per radian may be used when the gust load is applied to the wings only and the horizontal tail gust loads are treated as a separate condition.

3. Section 23.345(a)(2) would be amended by changing the gust velocity value from 15 fps to 25 fps.

4. Section 23.425(a) (1) and (2) and (d) would be amended to read as follows:

§ 23.425 **Gust loads.**

(a) * * *

(1) Gust velocities specified in § 23.341 (a) with flaps retracted; and

(2) Positive and negative gusts of 25 fps nominal intensity at V_F corresponding to the flight condition specified in § 23.345(a)(2).

* * * * *

(d) In the absence of a more rational analysis, the incremental tail load due to the gust must be computed as follows:

$$\Delta L_{ht}=\frac{K_g U_{de} V a_{ht} S_{ht}}{498}\left(1-\frac{d\epsilon}{d\alpha}\right)$$

where—

ΔL_{ht}=incremental horizontal tail load (lbs.);
K_g=gust alleviation factor defined in section 23.341;
U_{de}=derived gust velocity (fps);
V=airplane equivalent speed (knots);
a_{ht}=slope of horizontal tail lift curve (per radian);
S_{ht}=area of horizontal tail (ft.^{2}); and
$\left(1-\frac{d\epsilon}{d\alpha}\right)$=downwash factor.

5. Sections 23.443 (a) and (b) would be amended to read as follows:

§ 23.443 **Gust loads.**

(a) Vertical tail surfaces must be designed to withstand, in unaccelerated flight, lateral gusts of the values prescribed for V_C in § 23.341(a).

(b) In the absence of a more rational analysis, the gust load must be computed as follows:

$$L_{vt}=\frac{K_{yt} U_{de} V a_{vt} S_{vt}}{498}$$

where—

L_{vt}=vertical tail load (lbs.);
$K_{yt}=\frac{0.88\mu_{yt}}{5.3+\mu_{yt}}$=gust alleviation factor;
$\mu_{yt}=\frac{2W}{\rho \bar{C}_t g a_{vt} S_{vt}}\left(\frac{K}{l_t}\right)^2$=lateral mass ratio;
U_{de}=derived gust velocity (fps);
ρ=air density (slugs/cu. ft.);
W=airplane weight (lbs.);
S_{vt}=area of vertical tail (ft.^{2});
$\bar{C}_t$=mean geometric chord of vertical surface (ft.);
a_{vt}=lift curve slope of vertical tail (per radian);
K=radius of gyration in yaw (ft.);
l_t=distance from airplane e.g. to lift center of vertical surface (ft.);
g=acceleration due to gravity (ft./sec.^{2}); and
V=airplane equivalent speed (knots).

* * * * *

6. Section A23.3 of Appendix A of Part 23 would be amended by striking out the term "30 fps" from the definitions of n_z and z.

Explanation. The present gust load substantiation requirements, prescribed gusts magnitudes, and associated gust load factor formulae are based on airplane wing loading concepts, and do not account for the effect of altitude on gust loads. The several changes under this proposal would substitute gust investigation based on airplane mass parameter concepts in place of the present wing loading concepts. Experience with similar mass parameter derived requirements in Part 25 has shown these requirements to be more accurate than the present requirements at higher altitudes and more representative of actual gust loads sustained at low altitudes. The changes to the gust envelope in § 23.333 (d) are proposed in order to represent graphically the variation of investigated gust velocities with altitude that is assumed under the mass approach. Several changes in prescribed values are proposed, such as the increased gust velocity from 15 to 25 fps in change No. 3. These changes appear to be large changes in substance. However, when the proposed values are placed in the proposed formulae, the resultant burdens are similar to those under the present wing loading derived standards.

Proposal 4. Determination of design cruising speed (§ 23.335). Section 23.335(a)(2) would be amended, (a)(3) added, and (b)(2) amended to read as follows:

§ 23.335 **Design airspeeds.**

* * * * *

(a) * * *

(2) For values of W/S more than 20, the multiplying factors may be decreased linearly with W/S to a value of 33 where W/S=100.

(3) V_C need not exceed 0.9 V_H.

(b) * * *

(2) For values of W/S more than 20, the multiplying factors may be decreased linearly with W/S to a value of 1.35 where W/S=100.

* * * * *

Explanation. Two changes are proposed. First, the rule would be changed to make it clear that the specified linear decreases in the multiplying factors determining design cruising speed are allowed but not required. This change

reflects long standing intent with respect to the rule. Second, permission to limit design cruising speed to 0.9 V_H would be extended to all airplanes. For airplanes with wing loadings of 20 or less, as well as those with wing loadings greater than 20, an unnecessary burden may result from requiring that the design cruising speed be determined solely with reference to wing loading and the multiplying factors specified in § 23.335(a)(1). Since V_H is the maximum speed in level flight with rated r.p.m. and power, safety will not be compromised if the design cruising speed is not required to exceed 0.9 V_H.

Proposal 5. Normal category minimum limit maneuvering load factor (§ 23.337). Section 23.337(a)(1) would be amended by striking out the words following the number "3.8."

Explanation. The present minimum limit maneuvering load factor of 2.5 is below the minimum that can be obtained using the greatest possible weight under Part 23, namely 12,500 pounds. Since this weight parameter determines the minimum limit maneuvering load factor that can possibly be obtained under the formula, no minimum need be specified.

Proposal 6. Substantiation of high lift devices (§ 23.345). Section 23.345 (e) would be amended by striking out the cross reference to § 23.175(c).

Explanation. It is impractical to combine flight test conditions and airload conditions, which is the effect of the cross reference to § 23.175(c).

Proposal 7. Rolling conditions (§ 23.349). The term "wing airload" in § 23.349(a) (1) and (2) would be changed to "semispan wing airload."

Explanation. The airloads to which the prescribed percentages apply are the wing airloads on each side of the roll axis, not the total wing airload. Therefore, "wing airload" is too broad. "Semispan wing airload" is more precise.

Proposal 8. Engine torque (§ 23.361). 1. The word "and" following § 23.361(a)(1) would be moved to follow § 23.361(a)(2), a semicolon would be inserted to replace the period following § 23.361(a)(2), and a new § 23.361(a)(3) would be added to read as follows:

§ 23.361 Engine torque.

* * * * *

(a) * * *

(3) For turbopropeller installations, in addition to the conditions specified in subparagraphs (1) and (2) of this paragraph, the limit engine torque corresponding to takeoff power and propeller speed, multiplied by a factor accounting for propeller control system malfunction, including quick feathering, acting simultaneously with 1g level flight loads. In the absence of a rational analysis, a factor of 1.6 must be used.

* * * * *

2. Subparagraphs (1) and (2) of § 23.361(b) would be redesignated as subparagraphs (2) and (3), respectively, and a new subparagraph (1) would be added to read as follows:

(1) 1.25 for turbopropeller installations.

Explanation. For turbopropeller installations, the present requirements fail to account for torque loadings transmitted to the engine mount and related structure during a control malfunction, such as sudden feathering of the propeller. These loadings together with 1g flight loads could be critical for the engine mounting structure. The present requirements also fail to recognize that the smooth power impulse characteristics of turbine engines justify a multiplying factor as low as 1.25. This proposal would correct these deficiencies in a manner consistent with the requirements in § 25.361 of Part 25, which have been safely applied.

Proposal 9. Unsymmetrical loads due to turbine engine failure (new § 23.367). A new § 23.367 would be added to read as follows:

§ 23.367 Unsymmetrical loads due to engine failure.

(a) The airplane must be designed for the unsymmetrical loads resulting from the failure of the critical engine. Turbopropeller airplanes must be designed for the following conditions in combination with a single malfunction of the propeller drag limiting system, considering the probable pilot corrective action on the flight controls:

(1) At speeds between V_{MC} and V_D, the loads resulting from power failure because of fuel flow interruption are considered to be limit loads.

(2) At speeds between V_{MC} and V_C, the loads resulting from the disconnection of the engine compressor from the turbine or from loss of the turbine blades are considered to be ultimate loads.

(3) The time history of the thrust decay and drag buildup occurring as a result of the prescribed engine failures must be substantiated by test or other data applicable to the particular engine-propeller combination.

(4) The timing and magnitude of the probable pilot corrective action must be conservatively estimated, considering the characteristics of the particular engine-propeller-airplane combination.

(b) Pilot corrective action may be assumed to be initiated at the time maximum yawing velocity is reached, but not earlier than 2 seconds after the engine failure. The magnitude of the corrective action may be based on the control forces specified in § 23.397 except that lower forces may be assumed where it is shown by analysis or test that these forces can control the yaw and roll resulting from the prescribed engine failure conditions.

Explanation. No regulation now provides for substantiation of the airplane for the vertical tail loads resulting from unsymmetrical power conditions due to engine failure in combination with windmilling propeller drag loads. These loads are not critical for reciprocating engines but may be critical for turbopropeller powered airplanes, since windmilling, fixed turbine, turbopropeller installations can develop high drag loads. The proposed standards have been safely applied under Part 25.

Proposal 10. Turbopropeller installation gyroscopic loads (new § 23.371). A new §23.371 would be added to read as follows:

§ 23.371 Gyroscopic loads.

For turbopropeller powered airplanes, each engine mount and its supporting structure must be designed for the gyroscopic loads that result, with the engines at maximum continuous r.p.m., under either of the following conditions:

(a) The conditions prescribed in §§ 23.351 and 23.423.

(b) All possible combinations of the following:

(1) A yaw velocity of 2.5 radians per second.

(2) A pitch velocity of 1 radian per second.

(3) A normal load factor of 2.5.

(4) Maximum continuous thrust.

Explanation. The light weight and long overhang characteristics of turbopropeller installations may result in engine mount strength inadequate to withstand gyroscopic loads that result from the pitch and yaw conditions for which the tail surfaces are substantiated. Proposed (a) would require the engine mount structure to be substantiated for those conditions. Proposed (b) would alternatively allow the applicant to use simplified, conservative design conditions to accomplish the same result.

Proposal 11. Speed control devices (New § 23.373). A new § 23.373 would be added to read as follows:

§ 23.373 Speed control devices.

If speed control devices (such as spoilers and drag flaps) are incorporated for use in en route conditions—

(a) The airplane must be designed for the symmetrical maneuvers and gusts prescribed in §§ 23.333, 23.337, and 23.341, and the yawing maneuvers and lateral gusts in §§ 23.441 and 23.443, with the device extended at speeds up to the placard device extended speed; and

(b) If the device has automatic operating or load limiting features, the airplane must be designed for the maneuver and gust conditions prescribed in paragraph (a) of this section at the speeds and corresponding device positions that the mechanism allows.

Explanation. En route speed control devices are likely on the coming generation of high performance small airplanes. No provision for such devices is made in Part 23. The proposed standards have been shown to be adequate through long application under Part 25.

Proposal 12. Use of prescribed "maximum" and "minimum" pilot forces for control system design (§ 23.395). 1. Section 23.395(a)(1) would be amended by adding the following sentence at the end thereof: "Pilot forces used for design need not exceed the maximum forces prescribed in § 23.397(b)."

2. Section 23.395(a)(2) would be amended by adding the following sentence at the end thereof: "Compliance with this subparagraph may be shown by designing for loads resulting from

application of the minimum forces prescribed in § 23.397(b)."

3. Section 23.395(c) would be amended by striking out the first sentence and by striking out the words "these pilot forces" before the words "are assumed" and inserting the words "pilot forces used for design" in place thereof.

Explanation. The only design reference in § 23.395 to the limit pilot forces of § 23.397 is the general reference in § 23.395(c). This reference is a mere editorial one that does not clearly state the regulatory effect of those pilot forces. This proposal would correct this deficiency without substantive change.

Proposal 13. Clarification of wheel control forces (aileron) (§ 23.397). 1. The values "53D in-pounds" and "40D in-pounds" in § 23.397(b) would be amended to read "50 pounds" and "40 pounds", respectively.

2. Footnote 4 in § 23.397(b) would be amended to read as follows:

"The force must be applied simultaneously to opposite sides of the wheel and in opposite directions.

Explanation. The present terminology based on inch-pounds has been confusing to some persons. The proposed language is intended to prevent further confusion. Except for a rounding of 54D in-pounds to 50 pounds, no substantive change would result from this proposal.

Proposal 14. Design landing weight (§§ 23.25, 23.473, and 23.1583). 1. Section 23.25(a) introductory text and subparagraph (1) would be amended to read as follows:

§ 23.25 Weight limits.

(a) *Maximum weight.* The maximum weight is the highest weight at which compliance with each applicable requirement of this part (other than those complied with at the design landing weight) is shown. The maximum weight must be established so that it is—

(1) Not more than—

(i) The highest weight selected by the applicant;

(ii) The design maximum weight, which is the highest weight at which compliance with each applicable structural loading condition of this part (other than those complied with at the design landing weight) is shown; or

(iii) The highest weight at which compliance with each applicable flight requirement is shown, except for airplanes equipped with standby power rocket engines, in which case it is the highest weight established in accordance with Appendix E of this part; or

* * * * *

2. Section 23.473 (a), (b), and the introductory text of (c) would be amended to read as follows:

§ 23.473 Ground load conditions and assumptions.

(a) The ground load requirements of this subpart must be complied with at the design maximum weight except that §§ 23.479, 23.481, and 23.483 may be complied with at a design landing weight (the highest weight for landing conditions at the maximum descent velocity) allowed under paragraphs (b) and (c) of this section.

(b) The design landing weight may be as low as the design maximum weight less the weight of 25 percent of the total fuel capacity.

(c) The design landing weight of a multiengine airplane may be less than that allowed under paragraph (b) of this section if—

* * * * *

3. Section 23.473(c)(1) would be amended by striking out the cross reference "§ 23.67" and inserting the cross reference "23.67 (a) or (b)(1)" in place thereof, and § 23.473(c)(2) (i) and (ii) would be deleted.

4. Section 23.473(g) would be amended by inserting the words "at design maximum weight" after the number "2.0."

5. A new § 23.1583(c)(5) would be added to read as follows:

§ 23.1583 Operating limitations.

* * * * *

(c) *Weight.* * * *

(5) The design landing weight, if less than the maximum weight.

* * * * *

Explanation. Section 23.473(b) now allows a design landing weight as low as 95 percent of the maximum weight. FAA studies have shown that allowing a design landing weight equal to the design maximum weight less 25 percent of the total fuel capacity would be more rational and would not compromise strength for the landing conditions. The 25 percent figure is based on the increasing average time per flight, increasing fuel capacities, increasing fuel consumption rates, and the typical flight missions of modern small airplanes, including IFR alternate field fuel needs, especially for turbine engine powered airplanes. Proposed new § 23.473(a) would make it clear that the design maximum weight is the weight to be used in investigating ground loads unless the design landing weight option is chosen by the applicant. That paragraph would also make it clear that the design landing weight option applies only to the conditions actually representing landing loads, namely the conditions in §§ 23.479, 23.481, and 23.483. Both of these clarifications reflect present practice and would involve no substantive change.

The conditions under which a design landing weight, less than the maximum weight, may be used are specified in § 23.473(b) (1), (2), and (3). The structural condition in (b)(1) would be surplus and would be deleted because of the addition of the words "design maximum weight" to § 23.473(g) in change 6 of this proposal. The one-half hour minimum fuel capacity requirement in (b)(2) would be surplus since the 25 percent fuel figure would be used.

The change to the crossreference in § 23.473(c)(1) is one of precision only, with no substantive change. Section 23.473(c)(2) (i) and (ii) would be deleted because there is no need to incorporate Part 25 standards in addition to ground load and landing gear requirements that have been added to Part 23 since the adoption of § 23.473.

The addition of "design maximum weight" to § 23.473(g) is made because (1) load factors without prescribed weights are meaningless, and (2) the intent of (g) is to prescribe load factors at the highest weight at which compliance with each applicable structural loading condition is shown.

Proposal 15. Limit side force condition for skiplanes (§ 23.505). Section 23.505 would be amended to read as follows:

§ 23.505 Supplementary conditions for skiplanes.

In determining ground loads for skiplanes, and assuming that the airplane is resting on the ground with one main ski frozen at rest and the other skis free to slide, a limit side force equal to 0.036 times the design maximum weight must be applied near the tail assembly, with a factor of safety of 1.

Explanation. The present limit side force is based on tail ski design factors. A force appropriate for both tail and nose ski configurations is necessary. The figure 0.036 times the design maximum weight is appropriate for this purpose.

Proposal 16. Substantiation of multiple-wheel landing gear units (new § 23.511). A new § 23.511 would be added to read as follows:

§ 23.511 Ground load: unsymmetrical loads on multiple-wheel units.

For dual wheel landing gear units, the following apply:

(a) The airplane is assumed to pivot about one side of the main gear with—

(1) The brakes on the pivoting unit locked; and

(2) A limit vertical load factor of 1, and coefficient of friction of 0.8, applied to the main gear and its supporting structure.

(b) The loads established under §§ 23.471 through 23.483 must be applied, in a 60/40 percent distribution, to the dual wheels and tires in each dual wheel landing gear unit.

(c) For the deflated tire condition—

(1) 60 percent of the loads established under §§ 23.471 through 23.483 must be applied to each wheel in a landing gear unit; and

(2) 60 percent of the limit drag and side loads, and 100 percent of the limit vertical load established under §§ 23.485 and 23.493 or lesser vertical load obtained under subparagraph (1) of this paragraph, must be applied to either wheel in the dual wheel landing gear unit.

Explanation. Part 23 does not provide specific standards for the substantiation of multiple-wheel landing gear units. It now appears that small airplanes having such units are being designed. The proposed standards are believed to be the minimum necessary for substantiation of multiple-wheel units.

Proposal 17. Emergency landing conditions (§ 23.561). 1. Section 23.561

(c)(3) and (d) (introductory text) would be amended by adding a comma and the words "in the absence of a more rational analysis—" after the word "assuming."

2. The word "upward" in § 23.561(c)(3)(i) would be deleted and replaced with the word "downward."

Explanation. Change 1 would reflect present intent with respect to allowing the use of rationally determined values of ultimate inertia force and coefficient of friction instead of the specified values. Change 2 is necessary because the term "vertical ultimate acceleration" in the note following former CAR § 3.386(c) was intended to refer to inertia forces that are downward, with respect to the airplane, in the wheels-retracted emergency landing condition. For the turnover condition of § 23.561(d), the CAR language "vertical ultimate acceleration" is properly recodified as "upward," again with respect to the airplane.

Proposal 18. Fatigue evaluation of flight structure (§ 23.571). The present text of § 23.571 would be designated as paragraph (b), present paragraphs (a) and (b) would be designated as subparagraphs (1) and (2), respectively, of paragraph (b), and the following paragraph (a) would be added:

§ 23.571 Pressurized cabin.

(a) The strength, detail design, and fabrication of those parts of the wing, wing carry-through, and attaching structure whose failure would be catastrophic must be evaluated under either of the following unless it is shown that the structure, operating stress level, materials, and expected use are comparable, from a fatigue standpoint, to a similar design that has had extensive satisfactory service experience:

(1) A fatigue strength investigation, in which the structure is shown by analysis, tests, or both, to be able to withstand the repeated loads of variable magnitude expected in service.

(2) A fail safe strength investigation in which it is shown by analysis, tests, or both, that catastrophic failure of the structure is not probable after fatigue failure, or obvious partial failure, of a principal structural element, and that the remaining structure is able to withstand a static ultimate load factor of 75 percent of the critical limit load factor at V_C. These loads must be multiplied by a factor of 1.15 unless the dynamic effects of failure under static load are otherwise considered.

* * * * *

Explanation. Part 23 does not require an effective fatigue evaluation of the wing and associated structure. Service experience has shown that fatigue effects not adequately covered by present design practice can develop over a period of time. The proposed alternatives of fatigue strength investigation or fail safe strength investigation, limited to wing and associated structure whose failure could be catastrophic, are intended to prevent the hazard of fatigue failures in service while minimizing the burden on the applicant.

Proposal 19. Lightning strike evaluation (New § 23.581). 1. A new center heading entitled "Lightning Evaluation" would be added following § 23.571.

2. A new § 23.581, following the above new center heading, would be added to read as follows:

§ 23.581 Lightning protection of structure.

(a) The airplane must be protected against catastrophic effects from lightning.

(b) For metallic components, compliance with paragraph (a) of this section may be shown by—

(1) Bonding the components properly to the airframe; or

(2) Designing the components so that a strike will not endanger the airplane.

(c) For nonmetallic components, compliance with paragraph (a) of this section may be shown by—

(1) Designing the components to minimize the effect of a strike; or

(2) Incorporating acceptable means of diverting the resulting electrical current so as not to endanger the airplane.

Explanation. Small airplane operations involving potential exposure to lightning strikes are increasing. The hazardous effects of lightning on aircraft are well known. Economically practical means of protecting aircraft from such effects have been under study for several years. In order to prevent undue dictation of design, and yet, on the other hand, avoid an unnecessarily vague standard, this proposal summarizes the design objectives derived from the studies and experience obtained in the field of lightning protection of aircraft structures.

Proposal 20. Self-locking nuts (§ 23.607). Section 23.607 would be amended by adding, at the end thereof, a comma and the words "unless an additional locking means is provided."

Explanation. The present language was originally intended to prevent the use of self-locking nuts incorporating only one locking means. Self-locking nuts are now available with more than one locking means. These nuts may be safely used on bolts subject to rotation in operation.

Proposal 21. Accessibility of parts requiring inspection (§ 23.611). Section 23.611 would be amended to read as follows:

§ 23.611 Accessibility of parts.

There must be means to allow close examination, repair, and replacement of each part requiring maintenance, adjustments for proper alignment and function, or lubrication.

Explanation. Under the present language, the repair and replacement aspects of necessary maintenance may be impaired by the small size or other inadequacy of the access means, since those means need only allow "inspection."

Proposal 22. Design properties (§ 23.615). The words "examples of these items include," in § 23.615(a)(1), and subdivisions (i) through (iv) of (a)(1) would all be deleted.

Explanation. The kinds of structure covered by § 23.615(a)(1) are adequately described therein by the words "where * * * involved". Experience has shown that no need for specific examples exists.

Proposal 23. Interchangeability of seam-welded and seamless steel tubing (§ 23.617). Section 23.617 would be deleted.

Explanation. Experience with the use of steel tubing has progressed far beyond that which existed when the present language was issued. It is no longer necessary to specifically describe kinds of steel tubing. To the contrary, such specification may now have an unnecessarily restrictive effect.

Proposal 24. Use of special factors (§ 23.619). Section 23.619 would be amended to read as follows:

§ 23.619 Special factors.

(a) The factor of safety prescribed in § 23.303 must be multiplied by the special factors of safety prescribed in §§ 23.621 through 23.625 for each part of the structure whose strength is—

(1) Uncertain;

(2) Likely to deteriorate in service before normal replacement; or

(3) Subject to appreciable variability because of uncertainties in manufacturing processes or inspection methods.

(b) Only the highest pertinent special factor need be considered.

Explanation. This proposed change is editorial only. The present language contains redundancies and is unnecessarily different in organization from the equivalent requirement in the other airworthiness parts.

Proposal 25. Bearing factors (§ 23.623). Section 23.623 would be amended to read as follows:

§ 23.623 Bearing factors.

(a) Each part that has clearance (free fit), and that is subject to pounding or vibration, must have a bearing factor large enough to provide for the effects of normal relative motion.

(b) For control surface hinges and control system joints, compliance with the factors prescribed in §§ 23.657 and 23.693, respectively, meets paragraph (a) of this section.

Explanation. Three changes are proposed. First, proposed paragraph (a) would bring Part 23 into conformity with the equivalent requirements in Parts 25, 27, and 29. Second, present paragraph (b) would be deleted as surplus with the general provision in § 23.619 that only the largest special factor need be considered. Finally, proposed new paragraph (b) would reflect present practice with respect to control surface hinges and control system joints. No substantive change would result from these proposals.

Proposal 26. Fitting factors (§§ 23.625, 23.785, and 23.1413(b)). 1. The flush paragraph following § 23.785(f)(3) would be deleted.

2. Section 23.1413(b) would be deleted.

3. The following new § 23.625(d) would be added:

§ 23.625 Fitting factors.

* * * * *

(d) For each seat, berth, and safety belt, its attachment to the structure must be shown, by analysis, tests, or both, to be able to withstand the inertia forces prescribed in § 23.561 multiplied by a fitting factor of 1.33.

Explanation. This proposal would consolidate seat, berth, and belt attachment factor requirements in one section. No substantive change would result.

Proposal 27. Flutter (§23.629). 1. Section 23.629(a) (introductory text) would be deleted.

2. Section 23.629(a)(1) would be redesignated as (a) and would be amended by adding at the end thereof the words ", including all speeds up to V_D selected under § 23.335(b)(1) or 1.2 times the value of V_D selected under § 23.335(b)(3). In addition—"

3. Section 23.629(a)(2), (3), and (4) would be redesignated, respectively, as (a)(1), (2), and (3).

Explanation. Present § 23.629(a) (first sentence) is partially redundant with (a)(1). The proposed consolidation would eliminate this redundancy. The proposed change to current § 23.629 (a)(1) is necessary in order to insure an adequate speed margin for flutter when a more rational speed spread between V_F and V_D is selected in place of the arbitrary speed spread of § 23.335(b)(1).

Proposal 28. Turbopropeller installation flutter (§ 23.629). A new § 23.629 (d) would be added to read as follows:

§ 23.629 Flutter.

* * * * *

(d) For multiengine turbopropeller powered airplanes, the dynamic evaluation must include—

(1) The significant elastic, inertia, and aerodynamic forces associated with the rotations and displacements of the plane of the propeller; and

(2) Engine-propeller-nacelle stiffness and damping variations appropriate to the particular configuration.

Explanation. Present § 23.629 does not adequately cover turbopropeller installations. For these installations, as opposed to reciprocating engine installations, experience has shown that the resulting inertia, aerodynamic, and elastic forces can have adverse effects on the flutter stability of the wing. Safety requires that variations of propeller axis rigidity in pitch and yaw be prevented from inducing potentially catastrophic wing flutter. This proposal would accomplish this result.

Proposal 29. Rib tests (§ 23.643). Section 23.643 would be deleted.

Explanation. Section 23.643 involves rib test details that are unnecessary in addition to the general proof of structure requirements in § 23.307.

Proposal 30. Trim system operation (§ 23.677). Section 23.677(b) would be amended by striking out the words "normal * * * continued" and inserting the words "adequate control for safe flight and landing is available" in place thereof.

Explanation. The intent of this requirement is that operation of the trim system may not be dependent upon the primary control system and that failures of the primary control system may not prevent safe flight and landing. This proposal would reflect this intent.

Proposal 31. Control system operation tests (§ 23.683). Section 23.683(b)(1) would be amended by adding, at the end thereof, the words "or the limit pilot forces in § 23.397(b), whichever are less".

Explanation. This proposal would preserve consistency with § 23.397 which provides that the airloads on the surfaces need not exceed those that would result from application of the forces in § 23.397(b).

Proposal 23. Pulley specifications (§ 23.689). Section 23.689(b) would be amended by striking out the words "as specified in the pulley specifications" after the words "is used".

Explanation. Correspondence of pulley and cable is prescribed in the first sentence of § 23.689(b). Correspondence may be verified in several ways. The reference to pulley specifications adds nothing.

Proposal 33. General landing gear substantiation (§ 23.721). Section 23.721 would be deleted.

Explanation. Section 23.721 adds nothing to the sections referenced therein.

Proposal 34. Providing for wing lift in drop tests (§§ 23.725 and 23.727). 1. Section 23.725(b) would be amended by striking out the words "wing lift is simulated" and inserting the words "the effect of wing lift is provided for" in place thereof.

2. Section 23.725(c) would be amended to read as follows:

§ 23.725 Limit drop tests.

* * * * *

(c) The limit inertia load factor must be determined in a rational or conservative manner, during the drop test, using a landing gear unit attitude, and applied drag loads, that represent the landing conditions.

* * * * *

3. Section 23.727(b) would be amended by striking out the words "wing lift * * * is simulated" and inserting the words "the effect of wing lift is provided for" in place thereof.

Explanation. Proposals 1 and 3 are made since wing lift is not itself simulated in the drop tests. Rather, the effects of wing lift are provided for. Proposal 3 would also make it clear that the following formula applies in all cases where the effects of wing lift are provided for, not only for wing lift equal to the airplane weight. Proposal 2 is necessary since representative landing gear drag loads, as well as the landing gear unit attitude currently prescribed, must be included in order to determine a rational or conservative limit inertia load factor.

Proposal 35. Ground load dynamic tests (new § 23.726). The following new § 23.726 would be added:

§ 23.726 Ground load dynamic tests.

(a) If compliance with the ground load requirements of §§ 23.479 through 23.483 is shown dynamically by drop test, one drop test must be conducted that meets § 23.725 except that the drop height must be—

(1) 2.25 times the drop height prescribed in § 23.725(a); or

(2) Sufficient to develop 1.5 times the limit load factor.

(b) The critical landing condition for the design conditions specified in §§ 23.479 through 23.483 must be used for proof of strength.

Explanation. For manufacturers who desire to use dynamic methods of landing gear strength substantiation, as allowed under § 23.305(b), this proposal would provide a safe alternative to the preparation of complex and expensive stress analyses and static test programs.

Proposal 36. Yaw substantiation of retractable landing gear (§23.729). Section 23.729(a)(2) would be amended by inserting the words ", including loads resulting from all yawing maneuvers prescribed for the airplane," between the words "flight loads" and the words "with the".

Explanation. Flight loads resulting from yawing maneuvers may be critical for gear doors and other parts of the retractable landing gear. Part 23 does not specifically cover such loads (although they are covered in the general term "flight loads").

Proposal 37. Flap operated landing gear warning device (§ 23.729). Section 23.729(e) would be amended and a new paragraph (f) would be added to read as follows:

§ 23.729 Retracting mechanism.

* * * * *

(e) *Landing gear position.* There must be means to indicate to the pilot when the wheels are secured in the extreme positions.

(f) *Landing gear warning.* For landplanes, the following aural or equally effective landing gear warning devices must be provided:

(1) A device that functions continuously when one or more throttles are closed, if the landing gear is not fully extended and locked. A throttle stop may not be used in place of an aural device.

(2) A device that functions continuously when the wing flaps are extended beyond the takeoff or approach position (whichever is greater), if the landing gear is not fully extended and locked. There may not be a manual shut-off for this warning device. The flap position sensing unit may be installed at any suitable location. The system for this device may use any part of the system (including the aural warning device) for the device required in subparagraph (1) of this paragraph.

Explanation. Landings with wheels retracted are occurring in aircraft having a throttle operated landing gear warning device. These potentially hazardous incidents are occurring primarily because power-on approaches are common. The throttle operated aural warning device, of course, does not function with much power on. Reliance upon landing gear position indicators alone has been shown to be insufficient. For

airplanes with flaps, this proposal would provide a backup aural device, similar to that required for transport category airplanes, that would function, regardless of throttle setting, when more than a determined amount of flap is used.

Proposal 38. Tires (*§ 23.733*). 1. Section 23.733(a) (introductory text) would be amended to read as follows:

(a) Each landing gear wheel must have a tire whose tire rating (assigned by the Tire and Rim Association or the Administrator) is not exceeded—

2. Subparagraphs (1) and (2) of paragraph (a) would be deleted.

(3) Subdivisions (i) and (ii) of subparagraph (2) of paragraph (a) would be redesignated, respectively, as subparagraphs (1) and (2) of paragraph (a).

Explanation. The requirement that the tire be a proper fit on the rim of the wheel is unnecessarily detailed in the light of well established industry practice. This proposal would delete this requirement.

Proposal 39. Brakes (*§ 23.735*). Section 23.735 would be amended to read as follows:

§ 23.735 Brakes.

(a) Brakes must be provided so that the brake kinetic energy capacity rating of each main wheel brake assembly is not less than the kinetic energy absorption requirements determined under either of the following methods:

(1) The brake kinetic energy absorption requirements must be based on a conservative rational analysis of the sequence of events expected during landings at the design landing weight.

(2) Instead of a rational analysis, the kinetic energy absorption requirements for each main wheel brake assembly may be derived from the following formula:

$$KE = \frac{0.0443WV_{s_0}^2}{N}$$

where—

KE=kinetic energy per wheel (ft. lb.);
W=design landing weight (lb.);
V_{s_0}=power-off stalling speed in knots, of the airplane at sea level, at the design landing weight, and in the landing configuration; and
N=number of main wheels.

(b) Brakes must be able to prevent the wheels from rolling on a paved runway with takeoff power on the critical engine, but need not prevent movement of the airplane with wheels locked.

Explanation. Part 23 does not provide for the determination of the energy absorption requirements of brakes. The present requirement in § 23.735(b) may not ensure the design of wheel brake combinations adequate for safe operation of the airplane. Proposed § 23.735(a) would therefore provide standards similar to the energy absorption determination requirements for transport category airplanes (§ 25.735(f)). Proposed § 23.735(b) would reflect the fact that, for aircraft with high power-to-weight ratios, it may be impossible to prevent motion, with locked wheels, when takeoff power is applied to the critical engine. Some question has arisen as to whether such motion constitutes "rolling" of the airplane within the meaning of present (a). It is not the intent of present (a) to prevent this motion, but only to ensure that the brakes can prevent the wheels themselves from rolling. The proposed energy absorption requirements reflect current industry practice in the design of small airplanes.

Proposal 40. Pressurized windshields and windows (*§§ 23.775 and 23.1583*). 1. A new § 23.775(e) would be added to read as follows:

§ 23.775 Windshields and windows.

* * * * *

(e) If certification for operation above 25,000 feet is requested, the windshields, window panels, and canopies must be strong enough to withstand the maximum cabin pressure differential loads combined with critical aerodynamic pressure and temperature effects, after failure of any load-carrying element of the windshield, window panel, or canopy.

2. A new § 23.1583(j) would be added to read as follows:

§ 23.1583 Operating limitations.

* * * * *

(j) *Altitude limitations.* Unless compliance with § 23.775(e) is shown, a maximum operating altitude limitation of 25,000 feet must be furnished for pressurized airplanes.

Explanation. Sudden decompression of small cabins due to transparency failure is potentially catastrophic. Experience with transport category airplanes has shown that decompression has been averted in several cases because of the dual element design of transparencies. The value 25,000 feet is believed to represent a reasonable point of demarcation between the altitudes at which sudden decompression is and is not potentially catastrophic, considering the expected cabin sizes and operating altitudes of small airplanes.

Proposal 41. Protection of occupants (*§§ 23.785 and 23.1413*). 1. A new § 23.785(g) would be added to read as follows:

§ 23.785 Seats and berths.

* * * * *

(g) Each occupant must be protected from head injury by—

(1) A safety belt and shoulder harness that will prevent the head from contacting any injurious object;

(2) A safety belt plus the elimination of any injurious object within striking radius of the head; or

(3) A safety belt plus an energy absorbing rest that will support the arms, shoulders, head, and spine.

2. Section 23.1413 would be amended by changing its heading to read "Safety belts and harnesses" and by changing the first sentence of paragraph (b) by inserting the words "and each harness" after the word "belt."

Explanation. Experience indicates that a significant reduction in injuries and fatalities in small airplane accidents may be obtained by the installation and use of effective upper body restraints or by designing airplane interiors to either eliminate injurious objects within striking radius of the head or provide energy absorbing support for the upper torso. This proposal would therefore apply, to small airplanes, standards identical with those long administered for large airplanes under § 25.785(c).

Proposal 42. Emergency exits on multiengine airplanes (*§ 23.807*). Section 23.807(a)(1) would be amended to read as follows:

§ 23.807 Emergency exits.

(a) *Number and location.* * * *

(1) For an airplane with engines mounted on the wings or on the side of the fuselage and that has a seating capacity of less than 16, and for an airplane with one or more engines mounted on the approximate centerline of the fuselage and that has a seating capacity of more than five, but less than 16, at least one emergency exit on the opposite side of the cabin from the main door specified in § 23.783.

* * * * *

Explanation. Section 23.807(a)(1) exempts all airplanes with five-or-less occupants from the requirement to have an emergency exit opposite the main door. For airplanes with engines mounted on the wings or on the side of the fuselage, the main door may be blocked by engine fire regardless of the number of occupants. Therefore the five-or-less exemption would be discontinued for these aircraft but would be continued for single engine airplanes and centerline thrust twins.

Proposal 43. Cabin pressure warning means (*§ 23.841*). Section 23.841(f) would be amended to read as follows:

§ 23.841 Pressurized cabins.

* * * * *

(f) Warning indication at the pilot station to indicate when the safe or preset pressure differential and absolute cabin pressure limits are exceeded. Appropriate warning markings on the cabin pressure differential indicator meet the warning requirement for pressure differential limits and an aural or visual signal (in addition to cabin altitude indicating means) meets the warning requirement for absolute cabin pressure limits.

* * * * *

Explanation. Present § 23.841(f) does not describe what pressure warning devices are acceptable. This proposal would follow the approach of § 25.841(b)(6), that is, that instrument markings are sufficient for safe warning of pressure differential limits, whereas aural or visual means are necessary for safe warning of absolute pressure limits.

Proposal 44. Leveling means (*§ 23.871*). Section 23.871 would be amended to read as follows:

§ 23.871 Leveling means.

There must be means for determining when the airplane is in a level position on the ground.

Explanation. Any means, not just reference marks, are acceptable for leveling the airplane on the ground.

Proposal 45. Equipment function (*§ 23.1301*). Section 23.1301(a) would be amended to read as follows:

§ 23.1301 Function and installation.

(a) Each item of installed equipment essential for safe operation must—

(1) Be of a kind and design appropriate to its intended function;

(2) Be labeled as to its identification, function, or operating limitations, or any applicable combination of these factors;

(3) Be installed according to limitations prescribed for that equipment and in compliance with § 23.1431; and

(4) Function properly when installed.

* * * * *

Explanation. This proposal would remove the unnecessary distinction between radio and other equipment that now exists in § 23.1301(a) (2) and (3), and extend the provisions of § 23.1431 to all equipment, not only radio equipment. There is no basis for distinguishing between radio and other equipment so far as general functioning requirements are concerned. The other changes are intended to bring the sections in closer conformity with the corresponding sections in Parts 25 through 29, without substantive change.

Proposal 46. Aircraft alternators (§ 23.1351). 1. Section 23.1351(b)(2) would be amended by adding the following at the end thereof: ", except that alternators may depend on a battery for initial excitation or for stabilization."

2. Section 23.1351(b)(3) would be amended by adding the following at the end thereof: ", except that the operation of an alternator that depends on a battery for initial excitation or for stabilization may be stopped by failure of that battery."

3. Section 23.1351(b)(4) would be amended by adding the following at the end thereof: ", except that controls associated with alternators that depend on a battery for initial excitation or for stabilization need not break the connection between the alternator and its battery."

Explanation. The present electrical system function requirements do not take into account the extensive service experience with aircraft alternators. This experience indicates that it is desirable to have a battery connected to the alternator field for initial excitation and for stabilization of the alternator, and that loss of electrical power (other than battery power) may occur if a heavy load is suddenly applied to an alternator whose field is not connected to a battery. This proposal would amend the electrical system function requirements to reflect this experience.

Proposal 47. Appendix A corrections—1. *Correction 1 (sec. A23.1).* This section provides that the design load criteria in Appendix A are equivalents of standards in §§ 23.321 "through 23.399." For consistency with former CAR Part 3, this would be changed to read "through 23.459." No substantive change would result.

2. *Correction 2 (Table 2).* Table 2 of Appendix A in former CAR Part 3 contained a note reading "NOTE: The surface loadings * * * are based * * * (etc)." This note was inadvertently omitted from Table 2, present Appendix A. This note would be added to present Table 2. No substantive change would result.

Proposal 48. Approval of weight and balance data in the Airplane Flight Manual (§ 23.1583). Section 23.1583 (c) and (d) would be amended to read as follows:

§ 23.1583 Operating limitations.

* * * * *

(c) *Weight.* The maximum weight must be furnished.

(d) *Center of gravity.* The established center of gravity limits must be furnished.

* * * * *

Explanation. This proposal would remove the requirement for approval of those portions of the Airplane Flight Manual that contain the details of load distribution. This would preclude the need for future amendment and reapproval of the Manual as weight and balance details change. Section 23.1519 provides that the weight and center of gravity limitations determined under § 23.23 must be established as operating limitations. Beyond this, separate and continual reapproval of changes in detailed weight and balance information is unnecessary for safety.

Proposal 49. Identification of figures in Appendix A and B. In order to prevent further confusion, the figures in Appendix A would be identified as figures "A1" through "A6" and those in Appendix B would be identified as figures "B1" through "B9." Consistent cross reference changes would be made in §§ 23.421 through 23.455 and in the text of Appendix B.

Proposal 50. Appendix B: Limitation of maximum control surface deflections by pilot effort (section B23.1). Appendix B, section B23.1, would be amended by redesignating section B23.1 (b) as section B23.1(c) and by adding the following new section B23.1(b):

(b) In the control surface loading conditions of section B23.11, the airloads on the movable surfaces need not exceed those that could be obtained in flight by using the maximum limit pilot forces prescribed in § 23.397(b). If the surface loads are limited by these maximum limit pilot forces, the tabs must be deflected—

(1) To their maximum travel in the direction that would assist the pilot; or

(2) In an amount corresponding to the greatest degree of out-of-trim expected at the speed for the condition being considered.

Explanation. It is the intent of section B23.1 to allow limitation of maximum control surface deflections by pilot effort when the average loadings and distributions of section B23.11 are used

Proposal 51. Tail surface loads as related to net balancing loads (figure 6 of Appendix B). A new note (c) would be added to Figure 6 of Appendix B to read as follows:

(c) The load on the fixed surface must be:

(1) 140 percent of the net balancing load for the flaps retracted case of note (a);

(2) 100 percent of the net balancing load for the flaps deflected case of note (a); and

(3) 120 percent of the net balancing load for the case in note (b).

Explanation. Failure of figure 6 to describe assumed loads on the fixed surfaces in terms related to net balancing loads has caused unnecessary administrative problems. These would be eliminated by this proposal. No substantive change from present practice would result from this proposal.

Proposal 52. Basic landing conditions (Appendix C). 1. A new NOTE 5 would be added to the table in section C23.1 to read as follows:

NOTE (5). n is the limit inertia load factor, at the c.g. of the airplane, selected under § 23.473 (d), (f), and (g).

2. The figure for the tail wheel type airplane in the level landing attitude in section C23.1 would be amended to indicate that the resultant ground load acts through the wheel axle.

Explanation. These self-explanatory changes are clarifying only, and reflect present practice in administering Appendix C.

POWERPLANT

Proposal 1. Fuel system independence (§ 23.953). Section 23.953(b)(1) would be amended by striking out the words "a hazardous amount of fuel" between the words "not contain" and the words "that can" and inserting the words "more than one quart of fuel (or any greater amount shown to be safe)" in place thereof.

Explanation. The present rule allows the shutoff valve for each tank to serve as the required firewall shutoff valve if the line between the valve and the engine compartment does not contain a "hazardous" amount of fuel. For all airplanes, one quart or less has been shown not to be hazardous and would be specified as a general maximum. However, there is no need to preclude showings of safe quantities of more than one quart. This proposal would allow that practice to continue.

Proposal 2. Measurement of required excess fuel flow for pump systems (§ 23.955). Section 23.955(c) would be amended to read as follows:

§ 23.955 Fuel flow.

* * * * *

(c) *Pump systems.* The fuel flow rate for each pump system (main and reserve supply) must be 125 percent of the takeoff fuel flow of the engine at the maximum power or thrust approved for takeoff under Part 33 of this chapter or lesser power or thrust selected and approved for takeoff under this part.

* * * * *

Explanation. This proposal would require measurement of excess fuel flow on the basis of percent of takeoff fuel consumption alone. The figure 0.9 pound per hour for each takeoff horsepower has been shown to add no necessary safety to that resulting from 125 percent of takeoff consumption. On the other hand, application of a fixed value of pounds per horsepower hour can produce erratic results from one engine type to another, results that are not meaningfully related to the basic requirement that establishes the fuel flow rate. This proposal also

adapts the excess fuel flow requirement to turbines by specifying power "or thrust," standardizes the use of the word "flow" versus "consumption," and makes it clear that the intended maximum takeoff power or thrust may be either that approved during engine type certification or selected and approved under Part 23.

Proposal 3. Multiple fuel tanks (§§ 23.955 and 23.959). Present § 23.959 (e) would be moved, and restricted to reciprocating engines, as new § 23.955(e) under a paragraph heading of "Multiple fuel tanks."

Explanation. Proposal 4 below would delete the minimum usable fuel requirements of present § 23.959. However, it is not intended to delete the fuel flow requirements of § 23.959(e). See also "Turbine change 4."

Proposal 4. Establishing unusable fuel supply (§ 23.959). Section 23.959 would be deleted and the following new § 23.959 would be inserted in place thereof:

§ 23.959 Unusable fuel supply.

The unusable fuel supply for each tank must be established as not less than that quantity at which the first evidence of malfunctioning occurs under the most adverse fuel food condition occurring under each intended operation and flight maneuver involving that tank.

Explanation. Present § 23.959 (a) through (d) contains detailed conditions for establishing the unusable fuel supply. Potentially critical conditions, and combinations of conditions, may be omitted by limiting the investigation to the specified detailed conditions. This problem of omission could be approached by the addition of more detailed conditions. However, experience in administering the general unusable fuel establishment requirements of Parts 25, 27, and 29 has shown that a general requirement can be safely applied in establishing unusable fuel. This proposal would therefore add an identical general requirement for small airplanes.

Proposal 5. Demonstration of freedom from vapor lock (for reciprocating engines) (§ 23.961). Section 23.961 would be amended by designating the present language as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 23.961 Fuel system hot weather operation.

* * * * *

(b) For reciprocating engines, freedom from vapor lock must be shown, at all altitudes below 8,000 feet, using the main fuel pumps alone and using the emergency pumps alone.

Explanation. Section 23.991 requires that there be emergency pumps to feed the engines after the failure of any engine-driven fuel pump other than a fuel injection pump approved as part of an engine. It is the intent of § 23.991 that each pump alone be able to meet the flow requirements of § 23.955, which means that freedom from vapor lock must be showable with each alone. However, the absence of such a specific requirement has caused some question as to whether freedom from vapor lock may be shown with the combined pumping capacities of main and emergency pumps. This proposal would prevent such a conclusion. The value 8,000 feet is chosen to preclude the need to run the vapor lock test to the maximum operating altitude and is believed to represent a reasonable demarcation altitude below which nearly all airports are located and above which the need for correct equipment and special care in many design areas would make a specific vapor lock requirement unnecessary.

Proposal 6. Fuel tank installation (§ 23.967). A new § 23.967(a)(6) would be added to read as follows:

§ 23.967 Fuel tank installation.

(a) * * *

(6) If the fuel filler must be uncovered manually for refueling, the pressure differential between the inner and outer surfaces of bladder cells, under all operating conditions, may not cause collapse of the cell or loss of fuel when the filler opening is partly or fully uncovered.

* * * * *

Explanation. Emergency landings and similar hazardous incidents may result if the necessary fuel flow from bladder cells is stopped by fuel loss or cell collapse due to improper use of manual means for uncovering fuel fillers for refueling. It is therefore proposed to require the assumption that the filler will be left open in evaluating the tendency of the tank to collapse or lose fuel under all operating conditions.

Proposal 7. Protection of fuel system components from wheels-up landings (New § 23.994). A new § 23.994 would be added to read as follows:

§ 23.994 Fuel system components.

The probability of fuel being released from any fuel system component as a result of a wheels-up landing must be minimized.

Explanation. Release of fuel from damaged fuel system components causes a potential fire hazard. Under present requirements, fuel system components are not specifically required to be protected from damage when the underside of the airplane contacts the ground in a wheels-up landing. This proposal would correct this deficiency.

Proposal 8. Accessibility of fuel valve controls (§ 23.995). Section 23.995(c) would be amended by striking out the word "and" following (c)(1), adding a semicolon and the word "and" following (c)(2), and by adding a new (c)(3) to read as follows:

§ 23.995 Fuel valves and controls.

* * * * *

(c) * * *

(3) Be designed and located so that the pilot can see and reach it regardless of any inflight position, or combination of inflight positions, of the pilot seat or any flight control, and without moving any seat or flight control.

* * * * *

Explanation. Proper fuel management requires that the pilot be able to reach the fuel selector, at any time, without being forced to move the seat or the primary controls (which may be hazardous at low altitudes). Ability to reach the fuel selector under any condition requires that each selector be visible to the pilot with the seat in any normal inflight position.

Proposal 9. Adequacy of oil lines (§ 23.1017). Section 23.1017(a) would be amended to read as follows:

§ 23.1017 Oil lines and fittings.

(a) *Oil lines.* Oil lines must meet § 23.993 and must accommodate a flow of oil at a rate and pressure adequate for proper engine functioning under any normal operating condition.

* * * * *

Explanation. If adequate oil flow can be maintained with oil lines whose inside diameters are less than the diameters of the corresponding engine oil pump inlets and outlets, safety does not require that lines with larger inside diameters be used. The present language relating oil line sizes to corresponding engine inlet and outlet sizes is therefore unnecessary for safety.

Proposal 10. Air induction (§§ 23.1091 and 23.1093). 1. Section 23.1091 would be amended by redesignating paragraphs (c), (d), and (e) as subparagraphs (1), (2), and (3) of paragraph (b), respectively, and by amending paragraph (b) to read as follows:

§ 23.1091 Air induction.

* * * * *

(b) Each reciprocating engine installation must have at least two separate air intake sources and must meet the following:

* * * * *

Explanation. Two changes are proposed. First, paragraph (b) would be amended to exclude the present allowance of a single air induction source for engines having fuel injection pumps and having no air intake screens, filters or other parts on which restrictive ice could form. This allowance is undesirable because (1) it encourages the absence of screens, which is not good design practice, (2) in some cases, induction systems without screens may be as sensitive to ice as systems with some screens of advanced design, and (3) systems without screens may experience duct icing that would require an alternate air source. Second, paragraph (b) would be restricted to reciprocating engines, consistent with proposals made below for turbine engines under § 23.1091.

2. Section 23.1091(e), which would be redesignated as § 23.1091(b)(3) under the above proposal, would also be amended by deleting the words "of the carburetor air preheater".

Explanation. There is no specific requirement for a "carburetor air preheater" if other means of preventing and eliminating icing are furnished.

3. Section 23.1093 would be amended by deleting the present paragraphs and by adding the following:

§ 23.1093 Induction system icing protection.

(a) The air induction system for each engine must have means to prevent the formation of ice in the air inlet system ducts, or on critical engine components, from having an adverse effect on engine operation. It must be impossible for ice removed or dislodged from any duct to adversely affect engine air or fuel flow.

* * * * *

Explanation. The detailed temperature rise requirements in present § 23.1093 are not clearly stated with respect to some types of installation. However, an attempt to give fully detailed, accurate temperature rise requirements for all installations would involve excessive detail. The objective of these standards is icing protection. It is believed that the proposed general requirement can be safely administered to suit individual installation details. Further changes to accommodate turbine engines are proposed below under § 23.1093. See "turbine change 11," below, for proposed § 23.1093(b).

Proposal 11. Open drains on the pressure side of turbosuperchargers (§ 23.1103). Section 23.1103(a) would be amended by striking out the words "no open drain may be on the pressure side of turbosupercharger installations."

Explanation. While the reason for preventing open drains on the pressure side of turbosupercharger installations (i.e., the possibility of fuel or vapor being expelled under pressure and penetrating areas that could ignite it) is valid in many cases, there is no reason for the requirement for installations in which open drains on the pressure side of turbosupercharger installations present no hazard. The requirement is therefore inappropriate as a general requirement. For unsafe installations, the general requirements of § 23.901 would be applied.

Proposal 12. Mixture control (§ 23.1147). Section 23.1147 would be amended by adding the following at the end of the first sentence (following the words "separate control"): ", and each mixture control must have guards or must be shaped or arranged to prevent confusion by feel with other controls."

Explanation. Misuse of the mixture control is increasing in frequency, and is believed to be caused by confusion, by feel, with other controls such as carburetor heat controls, cowl flap controls, and propeller controls.

Proposal 13. Carburetor air temperature controls (§ 23.1157). Section 23.1157 would be amended by adding the following sentence at the end thereof: "Each control must be designed or located so that no possible icing can impair its operation."

Explanation. Some question has arisen as to whether compliance with the requirement to have separate carburetor air temperature controls for each engine may be shown by automatic alternate air source doors or whether manually operated doors are necessary. Question has also arisen as to whether doors with only a fully open-or-shut capability are allowed or whether continuously variable doors are allowed. These questions need not arise since the kind of carburetor air temperature control is not important so long as it is protected against icing. This proposal would make this clear.

Proposal 14. Effect of closed fuel shutoff valve (§ 23.1189). Section 23.1189(b) would be amended by adding the following words after the words "remaining engines": "that would be available to those engines with that valve open."

Explanation. Literally read, the present requirement could be held to require that no on-board fuel be unavailable to the remaining engines when any fuel valve is closed. Such a requirement would require complete crossfeed provisions, which could introduce unnecessary hazards of their own. Under present design practice, many aircraft are designed so that some fuel is unavailable to some engines even with all fuel valves open. This practice is not unsafe in itself. This proposal would make § 23.1189(b) consistent with this permitted practice.

Proposal 15. Fire detectors (New § 23.1203). A new § 23.1203 would be added to read as follows:

§ 23.1203 Fire-detector system.

There must be quick acting fire detectors ensuring prompt detection of fire in the engine compartment of any powerplant that cannot be readily observed from the cockpit in flight.

Explanation. For engines not observable from the cockpit, means other than a direct visual check are necessary in order to prevent the development of engine fires. While this problem is generally a new one caused by the advent of aft-fuselage mounted turbine engines, it is also present in the case of certain reciprocating and turbine engine installations in other locations.

Proposal 16. Fuel quantity indicating means (§ 23.1305). Section 23.1305(a)(1) would be amended to read as follows:

§ 23.1305 Powerplant instruments.

(a) * * *

(1) A fuel quantity indicating means.

* * * * *

Explanation. Section 23.1337(b) requires a fuel quantity indicating "means" to indicate the quantity of fuel in each tank during flight. This may be met with a single indicator plus selector. It is intended that § 23.1305(a)(1) be consistent with § 23.1337(b). The present language wrongly suggests that each tank must have its own "indicator."

Proposal 17. Hydraulic systems (§ 23.1435). Section 23.1435(c) would be amended by adding the words "or propeller" after the words "part of an engine."

Explanation. The words "or propeller" were inadvertently omitted from the issue of Part 23.

Proposal 18. Marking usable fuel capacity near the filler cap (§ 23.1557). Section 23.1557(c)(1) would be amended to read as follows:

§ 23.1557 Miscellaneous markings and placards.

* * * * *

(c) *Fuel and oil filler openings.* * * *

(1) The word "fuel" and the minimum fuel grade or designation for the engines.

* * * * *

Explanation. Marking the fuel capacity near the filler does not serve any function necessary for safety in flight, nor is it essential for proper refueling. This requirement would therefore be deleted as unnecessary.

Proposal 19. Miscellaneous turbine installation requirements. The need for type certification standards for turbine engine powered small airplanes is rapidly increasing. Experience in the type certification of turbine engine powered aircraft in other categories has resulted in the identification of certain specific regulatory changes that are necessary to ensure safe turbine engine installations. These changes have also, where applicable, been applied as special conditions in the case of small turbine engine powered airplanes certificated under Part 23. The following proposals contain these changes, adapted to small turbine engine powered airplanes as a class.

Turbine change 1. Reversing systems (new § 23.933). A new § 23.933 would be added to read as follows:

§ 23.933 Reversing systems.

(a) Reversing systems intended for ground operation only must be designed so that no single failure or malfunction of the system will result in unwanted reverse thrust under any expected operating condition. Failure of structural elements need not be considered if the probability of this kind of failure is extremely remote.

(b) Turbojet reversing systems intended for inflight use must be designed so that no unsafe condition will result during normal operation of the system, or from any failure (or reasonably likely combination of failures) of the reversing system, under any anticipated condition of operation of the airplane. Failure of structural elements need not be considered if the probability of this kind of failure is extremely remote.

(c) Compliance with this section may be shown by failure analysis, testing, or both, for propeller systems that allow propeller blades to move from the flight low-pitch position to a position that is substantially less than that at the normal flight low-pitch stop position. The analysis may include or be supported by the analysis made to show compliance with the requirements of § 35.21 of this chapter for the propeller and associated installation components.

(d) Each turbojet reversing system must have means to prevent the engine from producing more than idle forward thrust when the reversing system malfunctions, except that it may produce any greater forward thrust that is shown to allow directional control to be maintained, with aerodynamic means alone, under the most critical reversing condition expected in operation.

Explanation. Reversing systems were generally not present in reciprocating engine powered small airplanes and so no reversing system standards have

evolved. The advent of the turbine engine, however, makes consideration of turbopropeller and turbojet reversing systems necessary. The proposed standards are similar to those in § 25.933, which have been safely applied. In addition, proposed § 23.933(d) is similar to § 25.933(d) which was proposed in Notice 65–43 (31 F.R. 93, Jan. 5, 1966), for the reasons stated therein, namely that there have been hazardous incidents involving loss of directional control of turbojet powered airplanes, on the ground, caused by thrust reverser malfunctions that allowed forward thrust to be developed by one engine while the remaining engines produced reverse thrust.

Turbine change 2. Turbopropeller-drag limiting systems (new § 23.937). A new § 23.937 would be added to read as follows:

§ 23.937 Turbopropeller-drag limiting systems.

Turbopropeller powered airplane propeller-drag limiting systems must be designed so that no single failure or malfunction of any of the systems during normal or emergency operation results in propeller drag in excess of that for which the airplane was designed under the structural requirements of this part. Failure of structural elements of the drag limiting systems need not be considered if the probability of this kind of failure is extremely remote.

Explanation. Turbopropeller installations may cause exceptionally high windmilling drag, which may, in turn, cause critical flight or structural conditions. This proposal is similar to § 25.937, which has been safely applied.

Turbine change 3. Turbine engine powerplant operating characteristics (new § 23.939). A new § 23.939 would be added to read as follows:

§ 23.939 Turbine engine powerplant operating characteristics.

(a) Turbine engine powerplant operating characteristics must be investigated in flight to determine that no adverse characteristics (such as stall, surge, or flameout) are present, to a hazardous degree, during normal and emergency operation within the range of operating limitations of the airplane and of the engine.

(b) Operation of the airplane within the portion of the flight envelope prescribed in § 23.333 that produces the highest negative acceleration loads may not cause hazardous malfunction of any part of the turbine engine powerplant.

(c) The vibration characteristics of turbine engine components whose failure could be catastrophic may not be adversely affected during normal operation.

Explanation. By special condition, requirements similar to those of § 25.939 have been applied in the type certification of small turbine engine powered airplanes to insure that the turbine engine installation will not be adversely affected by stall, surge, or other characteristics. Proposed (a) is similar to § 25.939. Proposed (b) and (c) are similar to § 25.939 (b) and (c) which are currently proposed in Notice 65–43 and which have been safely applied as special conditions in the type certification of turbine engine powered aircraft to ensure that no adverse vibration characteristics will occur and that extended negative acceleration loads will not interrupt fuel flow.

Turbine change 4. Fuel flow (§ 23.955). 1. A new § 23.955(f) would be added to read as follows:

§ 23.955 Fuel flow.

* * * * *

(f) *Turbine engine fuel systems.* Each turbine engine fuel system must provide at least 100 percent of the fuel flow required by the engine under each intended operation condition and maneuver. The conditions may be simulated in a suitable mockup. This flow must—

(1) Be shown with the airplane in the most adverse fuel feed condition (with respect to altitudes, attitudes, and other conditions) that is expected in operation; and

(2) Be automatically uninterrupted with respect to any engine until all fuel scheduled for use by the engine has been consumed.

Explanation. (See Proposal 3 for § 23.955(e)). Turbine engines are more sensitive to lack of sustained, adequate fuel flow than are reciprocating engines. The danger of flameouts associated with the absence of a continuous ignition source, the difficulty of restarting some turbine engines in flight, and the critical fuel flow rate problems associated with the high flow rates of turbines make it necessary that fuel flow be adequate and uninterrupted under all intended operating conditions and maneuvers.

2. Section 23.955(d) would be amended by striking out the words "paragraphs (b) and (c) of this section apply" and inserting the words "paragraphs (b), (c), and (f) of this section apply."

Explanation. This change is necessary since turbine engine fuel system requirements are intended to apply to turbine engine auxiliary and transfer systems, with the exceptions prescribed in § 23.955(d) (1) and (2).

Turbine change 5. Fuel system hot weather operation (§ 23.961). The present provisions in § 23.961 would be designated as paragraph (a) and new paragraphs (b) and (c) would be added to read as follows:

§ 23.961 Fuel system hot weather operation.

* * * * *

(b) For turbine engines and turbosupercharged reciprocating engines, the ability of the fuel system to perform satisfactorily in hot weather operation must be shown by climbing from the altitude of the airport elected by the applicant to the altitude representing the service ceiling of the airplane. There may be no evidence of vapor lock or other malfunctioning during the climb test conducted under the following conditions:

(1) The engines must operate at takeoff power or thrust for the time interval used for showing the takeoff under § 23.51 and at maximum continuous power or thrust for the rest of the climb.

(2) The weight of the airplane must be the weight with full fuel tanks, minimum crew, and the ballast necessary to maintain the center of gravity within allowable limits.

(3) The speed of climb may not exceed that allowing compliance with the minimum climb requirement specified in § 23.65.

(c) The test prescribed in paragraph (b) of this section may be performed in flight or on the ground under closely simulated flight conditions. If a flight test is performed in weather cold enough to interfere with the proper conduct of the test, the fuel tank surfaces, fuel lines, and other fuel system parts subject to cold air must be insulated to simulate, insofar as practicable, flight in hot weather.

Explanation. For turbine engine powered airplanes, the high altitude capabilities and sustained high rates of climb to altitude require that the fuel system be specifically substantiated throughout the altitude range. These problems are also present for turbosupercharged engine powered airplanes. This proposal would therefore include those airplanes.

Turbine change 6. Fuel pumps (§ 23.991). Section 23.991 (a) and (b) would be amended to read as follows:

§ 23.991 Fuel pumps.

(a) *Main pumps.* For main pumps, the following apply:

(1) For reciprocating engine installations having fuel pumps to supply fuel to the engine, at least one pump for each engine must be directly driven by the engine and must meet § 23.955. This pump is a main pump.

(2) For turbine engine installations, each fuel pump required for proper engine operation, or required to meet the fuel system requirements of this subpart (other than those in paragraph (b) of this section), is a main pump. In addition—

(i) There must be at least one main pump for each turbine engine;

(ii) The power supply for the main pump for each engine must be independent of the power supply for each main pump for any other engine; and

(iii) For each main pump, provision must be made to allow the bypass of each positive displacement fuel pump other than a fuel injection pump approved as part of the engine.

(b) *Emergency pumps.* There must be an emergency pump immediately available to supply fuel to the engine if any main pump (other than a fuel injection pump approved as part of an engine) fails. The power supply for each emergency pump must be independent of the power supply for each corresponding main pump.

* * * * *

Explanation. Section 23.991(a) now requires each main pump to be directly driven by the engine. Experience with small turbine engines has shown that these engines may be safely operated

with electric fuel pumps if (1) engine independence exists, and (2) fuel pump independence exists. This proposal contains changes necessary to permit the certification of small turbine engine powered airplanes without fuel pumps directly driven by the engine.

Turbine change 7. Fuel strainer or filter (§ 23.997). A new § 23.997(d) would be added to read as follows:

§ 23.997 Fuel strainer or filter.

* * * * *

(d) For turbine engine fuel systems, unless there are means in the fuel system to prevent the accumulation of ice on the filter, there must be means to automatically maintain the fuel flow if ice-clogging of the filter occurs.

Explanation. Turbine fuels have a high affinity for ice. This requires either that filters and screens be protected from icing or (if icing occurs) that there be means to automatically maintain the fuel flow. This proposal adds language similar to that in § 25.997 (b), and § 27.997(b), and language now also proposed for transport category rotorcraft (§ 29.997) in Notice 65–42, published 30 F.R. 16129, on December 28, 1965.

Turbine change 8. Fuel system lightning protection (new § 23.1003). A new § 23.1003 would be added to read as follows:

§ 23.1003 Fuel system lightning protection.

The design and arrangement of each fuel system must provide protection from lightning strike hazards, including the ignition of fuel vapors inside fuel tanks by—

(a) Direct strokes to areas where direct strokes are highly probable;

(b) Swept strokes on areas where swept strokes are highly probable; and

(c) Corona or streamering at fuel vent outlets.

Explanation. Turbine fuel system lightning hazards have been shown by experience to be significant enough to require regulation. The proposed standards are based on experience gained in applying lightning protection special conditions in the type certification of turbine engine powered aircraft.

Turbine change 9. Cooling tests (§§ 23.1043, 23.1045, 23.1047, and 23.1583). 1. Section 23.1043(a)(4) would be deleted and paragraph (a)(5) would be redesignated as (a)(4).

2. The provisions of § 23.1043(b) would be redesignated as § 23.1043(b)(1) under the present paragraph heading, and its first sentence would be amended by inserting the words "of reciprocating engines" between the words "for cooling tests" and the words "the maximum."

3. A new § 23.1043(b)(2) would be added to read as follows:

(2) For cooling tests of turbine engine installations, the applicant must select a temperature of not less than 100° F. at sea level, decreasing with altitude as prescribed in subparagraph (1) of this paragraph, for conduct of the test.

4. Section 23.1043(c) would be amended to read as follows:

(c) *Correction factor (except cylinder barrels).* Unless a more rational correction applies, temperatures of engine fluids and powerplant components (except cylinder barrels) for which temperature limits are established, must be corrected by adding to them the difference between the maximum ambient atmospheric temperature and the temperature of the ambient air at the time of the first occurrence of the maximum component or fluid temperature recorded during the cooling test.

5. The requirements in §§ 23.1045 and 23.1047 would be specifically restricted to reciprocating engines and would be placed together in § 23.1047 under the section heading "Cooling test procedures for reciprocating engine powered airplanes" with no changes other than appropriate subparagraphing changes, and a new § 23.1045 would be added to read as follows:

§ 23.1045 Cooling test procedures for turbine engine powered airplanes.

(a) Compliance with § 23.1041 must be shown for the takeoff, climb, en route, and landing stages of flight that correspond to the applicable performance requirements. The cooling tests must be conducted with the airplane in the configuration, and operating under the conditions, that are critical relative to cooling during each stage of flight. For the cooling tests, a temperature is "stabilized" when its rate of change is less than 2° F. per minute.

(b) Temperatures must be stabilized under the conditions from which entry is made into each stage of flight being investigated, unless the entry condition normally is not one during which component and engine fluid temperatures would stabilize (in which case, operation through the full entry condition must be conducted before entry into the stage of flight being investigated in order to allow temperatures to reach their natural levels at the time of entry). The takeoff cooling test must be preceded by a period during which the powerplant component and engine fluid temperatures are stabilized with the engines at ground idle.

(c) Cooling tests for each stage of flight must be continued until—

(1) The component and engine fluid temperatures stabilize;

(2) The stage of flight is completed; or

(3) An operating limitation is reached.

6. A new § 23.1583(j) would be added to read as follows:

§ 23.1583 Operating limitations.

* * * * *

(j) *Climb conditions.* For turbine engines, the temperatures and corresponding altitudes used in the climb test in § 23.1043(b)(2) must be furnished.

Explanation. Section 23.1043(a)(4) would be deleted because the sections referenced therein speak for themselves. The requirements now in §§ 23.1043(b), 23.1045, and 23.1047 do not provide adequate cooling substantiation for turbines and would therefore be restricted to reciprocating engines. The cooling test requirements added for turbines, including the requirement that test temperatures be furnished as an operating limitation, are necessary because of the effect of high temperature operation on turbines. Proposed § 23.1045 conforms to test program procedures shown to be necessary for turbine engine powered airplanes.

Turbine change 10. Turbine engine inlet protection (§ 23.1091). A new § 23.1091(c) would be added to read as follows:

§ 23.1091 Air induction.

* * * * *

(c) For turbine engine powered airplanes—

(1) There must be means to prevent hazardous quantities of fuel leakage or overflow from drains, vents, or other components of flammable fluid systems from entering the engine intake system; and

(2) The air inlet ducts must be located or protected so as to minimize the ingestion of foreign matter during takeoff, landing, and taxiing.

Explanation. Protection of turbine engine inlets from flammable fluids and foreign objects is now provided in § 25.1091(d) for transport category airplanes, and is proposed (Notice 65–42) for rotorcraft. The hazard of turbine engine ingestion of these materials is well known and exists in the same degree for turbine engine powered small airplanes. The proposed standards have been applied as special conditions in the type certification of these airplanes. See "Powerplant Proposal 10," above, for disposition of present (c).

Turbine change 11. Continuous maximum and intermittent icing conditions (§ 23.1093). A new § 23.1093(b) would be added to read as follows:

§ 23.1093 Induction system icing protection.

* * * * *

(b) Each turbine engine must be able to operate throughout its flight power range without adverse effect on engine operation or serious loss of power or thrust, under the icing conditions specified in Appendix C of Part 25 of this chapter. In addition, there must be means to indicate to appropriate flight crewmembers the functioning of the powerplant ice protection system.

Explanation. Appendix C of Part 25 defines icing conditions relevant to turbine powerplant icing protection. Present powerplant icing requirements in Part 23 are inappropriate for turbine engine installations. Use of the conditions in Appendix C of Part 25 is now required in Part 27 and is also proposed (Notice 65–42) for Part 29.

Turbine change 12. Turbine engine bleed air ducts (§ 23.1103). A new § 23.1103(c) would be added to read as follows:

§ 23.1103 Induction system ducts.

* * * * *

(c) For turbine engine bleed air systems, the following apply:

(1) No hazard may result if duct rupture or failure occurs anywhere between the engine port and the airplane unit served by the bleed air.

(2) The effect on airplane and engine performance of using maximum bleed air must be established.

(3) For bleed air systems used for direct cabin pressurization, no failure of the engine lubrication system may result in contamination of cabin air systems.

Explanation. Bleed air systems used with turbine engine installations present unique problems with respect to three main hazards: Structural effects of duct failure; adverse performance effects caused by taking engine inlet air for bleed air functions; and cabin air contamination. This proposal would meet these hazards specifically.

Turbine change 13. Turbine engine exhaust system (§ 23.1121). A new § 23.1121(g) would be added to read as follows:

§ 23.1121 General.

* * * * *

(g) If significant traps exist, each turbine engine exhaust system must have drains discharging clear of the airplane, in any normal ground and flight attitude, to prevent fuel accumulation after the failure of an attempted engine start.

Explanation. For turbine engine installations, the potential fire hazard of entrapped fuel in hot exhaust systems after the failure of an attempted engine start is well known. No present rules specifically meet this hazard. The proposed language has been applied as a special condition in the type of certification of turbine engine powered small airplanes.

Turbine change 14. Powerplant controls; general (§ 23.1141). A new § 23.1141(e) would be added to read as follows:

§ 23.1141 Powerplant controls: general.

* * * * *

(e) For turbine engine powered airplanes, no probable failure or combination or failures in any powerplant control system may cause the failure of any function necessary for safety. This must be shown by fault analysis, component tests, and simulated environmental tests.

Explanation. This proposal would, in effect, require that the need for system redundancy, alternate devices, and duplication of functions be determined in the design of turbine powerplant control systems. A similar change is currently being proposed (Notice 65-43) for transport category airplanes.

Turbine change 15. Turbine engine reverse thrust and propeller pitch settings below the flight regime (new § 23.1155). A new § 23.1155 would be added to read as follows:

§ 23.1155 Turbine engine reverse thrust and propeller pitch settings below the flight regime.

For turbine engine installations, each control for reverse thrust and for propeller pitch settings below the flight regime must have means to prevent its inadvertent operation. The means must have a positive lock or stop at the flight idle position and must require a separate and distinct operation by the crew to displace the control from the flight regime (forward thrust regime for turbojet powered airplanes).

Explanation. No reverse thrust or pitch standards have been necessary for reciprocating engine powered small airplanes. However, the advent of the turbine engine powered small airplane makes consideration of reverse thrust and pitch controls necessary for safety. The unique hazard of reversing systems is the possibility of their inadvertent use. These hazards can also result from the inadvertent use of propeller pitch control systems intended to cause high discing drag through the use of pitch settings lower than the flight low pitch limit.

Turbine change 16. Exception to required oil shutoff means (§ 23.1189). The introductory text of § 23.1189 would be redesignated as paragraph (a), present paragraphs (a) through (f) would be redesignated as subparagraphs (1) through (6) of paragraph (a), respectively, and the following new paragraph (b) would be added:

§ 23.1189 Shutoff means.

* * * * *

(b) Turbine engine installations need not have an engine oil system shutoff if—

(1) The oil tank is integral with, or mounted on, the engine; and

(2) All oil system components external to the engine are fireproof.

Explanation. Turbine engine installations have less need for an oil shutoff than do reciprocating engine installations because less oil is involved, the oil is less flammable, the resultant hazard of oil fire has been much less than in reciprocating engines, and the consequent feasibility of protecting against oil fires by the means proposed herein is much greater than for reciprocating engines. Further, since a turbine engine may windmill at high speeds even when not producing power, the closing of an oil shutoff could damage the engine. The section is reorganized because it is not intended that proposed (b) be subject to the limitations contained in the lead-in to present § 23.1189.

Turbine change 17. Powerplant instruments (§ 23.1305). A new § 23.1305 (c) would be added to read as follows:

§ 23.1305 Powerplant instruments.

* * * * *

(c) The following additional powerplant instruments are required for each turbine engine or tank:

(1) A gas temperature indicator.

(2) A fuel flow meter, if pilot action is required to maintain fuel flow within limits.

(3) A fire detector, if required by § 23.1203.

(4) A thrust indicator, or equivalent, for each turbojet engine.

(5) A torque indicator, or equivalent, for each turbopropeller engine.

(6) For each turbopropeller engine, as applicable, means to indicate to the flight crew when the propeller blade angle is below the flight low pitch position. This means must sense propeller pitch directly.

(7) For each turbopropeller engine, as applicable, a means to indicate to the pilot when the propeller blade angle is in the reverse thrust position.

(8) For each turbojet engine, as applicable, a means to indicate to the pilot when the turbojet thrust reverser is in the reverse thrust position.

Explanation. The powerplant instruments in present § 23.1305 are not appropriate for turbine engine powered airplanes. The instruments in this proposal are those that experience has shown to be necessary for the safe operation of those airplanes.

Turbine change 18. Airplane Flight Manual: inflight restart procedures (§ 23.1585). A new § 23.1585(d) would be added to read as follows:

§ 23.1585 Operating procedures.

* * * * *

(d) For turbine engine powered airplanes, one of the following must be furnished:

(1) A statement that the engines cannot be restarted in flight.

(2) The air start envelope and air start procedures.

Explanation. No inflight restart capability is required for small turbine engine powered airplanes. However, if an engine-out condition occurs, safety requires that no time or attention be wasted in attempting to restart an unstartable engine or in using the wrong procedures to restart an otherwise restartable engine.

Proposal 20. Miscellaneous turbosupercharger installation requirements. The installation of turbosuperchargers in small airplanes is becoming common in both the manufacture of new airplanes and in the alteration of airplanes already in service. Unsafe characteristics may result from improper matching of engine and supercharger. Present Part 23 does not specifically require that these characteristics be investigated and prevented. The changes under this proposal would correct this deficiency. Note that "turbine change 5," above, also affects turbosupercharger installations.

Turbosupercharger change 1. Safe operation at altitude (§§ 23.901 and 23.1041). Sections 23.901(b)(1) and 23.1041 would be amended by inserting the words "to the maximum altitude for which approval is requested" after the word "operation."

Explanation. The wide range of possible operating altitudes made possible by turbosuperchargers may result in altitude effects adversely affecting powerplant operation and cooling. Safety requires that these effects be investigated and that the limits of investigation de-

termine the limits of approval so far as altitude is concerned.

Turbosupercharger change 2. General design (new § 23.909). A new § 23.909 would be added to read as follows:

§ 23.909 Turbosuperchargers.

(a) Each turbosupercharger must be approved under the engine type certificate or it must be shown that the turbosupercharger system—

(1) Can withstand, without defect, an endurance test of 150 hours that meets the applicable requirements of § 33.49 of this subchapter; and

(2) Will have no adverse effect upon the engine.

(b) Control system malfunctions, vibrations, and abnormal speeds and temperatures expected in service may not damage the turbosupercharger compressor or turbine.

(c) Each turbosupercharger case must be able to contain fragments of a compressor or turbine that fails at the highest speed that is obtainable with normal speed control devices inoperative.

(d) Each turbosupercharger and turbosupercharger component close to engine accessories, primary structures, or lines or components carrying flammable fluids must be isolated by fireproof firewalls or shrouds.

Explanation. The proposed design standards for turbosupercharger installations are necessary because (1) the diversion of exhaust gas through the turbosupercharger turbine subjects the exhaust system to extreme pressures and temperatures, (2) failure of high speed rotating components in turbosupercharger installations may cause catastrophic damage to other parts of the airplane, and (3) the turbosupercharger, being operated by hot exhaust gas, may be hot enough to ignite materials close to it.

Turbosupercharger change 3. Cooling test procedures (§ 23.1043). The first sentence of § 23.1043(a) would be amended by adding the following words at the end thereof: "to the maximum altitude for which approval is requested. For turbosupercharged engines, each turbosupercharger must be operated through that part of the climb profile for which operation with the turbosupercharger is requested and in a manner consistent with its intended operation."

Explanation. Several factors may combine to cause cooling problems not present on nonturbosupercharged engines. These include higher intake, engine compartment, and cylinder head temperatures, and high temperature problems associated with the less dense air at altitude, such as reduced cooling capabilities. Present Part 23 does not specifically require consideration of these factors.

Turbosupercharger change 4. Engine power controls (§ 23.1143). Section 23.1143 would be amended to read as follows:

§ 23.1143 Engine power controls.

(a) There must be separate power controls for each engine.

(b) Power controls must be arranged to allow—

(1) Separate control of each engine; and

(2) Simultaneous control of all engines.

(c) Each power control must give a positive and immediate responsive means of controlling its engine.

(d) The power controls for each engine must be independent of those for every other engine.

Explanation. Safety requires that the control systems for turbosupercharger installations in each engine be protected and independent of those for every other engine. The present § 23.1143 includes only "throttle" controls. This proposal would extend present § 23.1143 to include all power controls plus a specific requirement of independence.

Turbosupercharger change 5. Required instruments (§ 23.1307). A new § 23.1307(c) would be added to read as follows:

§ 23.1307 Miscellaneous equipment.

* * * * *

(c) For turbosupercharger installations, the following must be furnished:

(1) A carburetor inlet temperature indicator.

(2) An exhaust gas temperature indicator.

(3) An oil temperature and pressure indicator for each turbosupercharger oil system that is separate from other oil systems.

Explanation. The proposed instruments are necessary to allow monitoring of turbosupercharger installations in order to prevent exceeding engine limitations, and to ensure that separate lubrication systems are monitored.

Turbosupercharger change 6. Required placard (new § 23.1569). A new § 23.1569 would be added to read as follows:

§ 23.1569 Turbosupercharger placard.

There must be a placard in clear view of the pilot that specifies all limitations established for the operation of turbosuperchargers.

Explanation. The possibilities of overheat or overboost conditions in turbosupercharger installations, especially during climb, require that adequate avoidance information be displayed for immediate use by the pilot.

GENERAL PROPOSALS

Proposal 1. Nautical units of speed and distance. Consistent with the gradual transition from statute miles to nautical miles being made throughout the Federal Aviation Regulations, it is proposed, in addition to certain specific changes made in this notice, to amend Part 23 by changing all references to "miles" and "miles per hour," to "nautical miles" and "knots," respectively, wherever the former are used.

Proposal 2. Maximum operating altitude (§§ 23.1501, 23.1527 (new), and 23.1583). 1. A new § 23.1527 would be added to read as follows:

§ 23.1527 Maximum operating altitude.

For turbine engine powered airplanes and turbosupercharged airplanes, the maximum altitude up to which operation is allowed, as limited by flight, structural, powerplant, functional, or equipment characteristics, must be furnished.

2. Section 23.1501(c) would be amended by striking out the reference to "§ 23.1525" and inserting a reference to "§ 23.1527" in place thereof.

3. A new § 23.1583(k) would be added to read as follows:

§ 23.1583 Operating limitations.

* * * * *

(k) *Maximum operating altitude.* For turbine engine powered airplanes and turbosupercharged airplanes, the maximum altitude furnished under § 23.1527 must be included.

Explanation. The increasing use of turbine engine and turbosupercharged engine powered airplanes has resulted in airplanes capable of extremely high altitudes. While certain requirements are now required to be complied with at normally expected operating altitudes, Part 23 does not now require that the highest substantiated altitude become an operating limitation. For airplanes with high altitude capabilities, such a limitation is necessary for safety. See "Turbine changea" for proposed § 23.1583(j).

These amendments are proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423).

Issued in Washington, D.C., on April 5, 1967.

JAMES F. RUDOLPH,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-3918; Filed, Apr. 10, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[7 CFR Parts 301, 319]

FOREIGN AND DOMESTIC QUARANTINE NOTICES

Postponement of Public Hearing Concerning Unshu (Satsuma) Oranges From Japan

On March 29, 1967, there was published in the FEDERAL REGISTER (32 F.R. 5284) a notice of rule making, under sections 5, 7, 8, and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 159, 160, 161, 162), proposing a revision of Notice of Quarantine No. 28 (7 CFR 319.28) and the issuance of a Notice of Quarantine No. 83 (7 CFR 301.83); and announcing a public hearing to consider these two proposals to be held in the new U.S. Courthouse, 620 Southwest Main Street, Portland, Oreg., at 10 a.m. April 12, 1967. Interested parties have requested a deferral of the scheduled public hearing in order to afford addi-

tional time for study of the two proposals. Accordingly, the said public hearing is postponed until April 19, 1967, on which date it will be held in the Studio Room, New Heathman Hotel, 712 Southwest Salmon Street, Portland, Oreg., beginning at 10 a.m., P.s.t. At this hearing any interested person may appear and be heard, in person or by attorney, on the proposals. Any interested person who desires to submit written data, views, or arguments on the proposals may do so by filing the same with the Director of the Plant Quarantine Division, Agricultural Research Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, on or before April 19, 1967, or with the presiding officer at the hearing.

All written communications received pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 7th day of April 1967.

[SEAL] E. P. REAGAN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 67-3996; Filed, Apr. 10, 1967; 8:50 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 39]

[Docket No. 8080]

AIRWORTHINESS DIRECTIVES

Tost Type Universal 53 Glider Tow Couplings

The Federal Aviation Agency is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Tost Type Universal 53 glider tow couplings, Serial Nos. 1 through 29999 installed on Schempp-Hirth Models Standard Austria S, SH, and SH-1; Scheibe Flugzeugbau Models L-Spatz 55, Bergfalke II 55, and SF 26A; and Alexander Schleicher Models Ka 6 CR, Ka 6 E, K 7, and K 8 B gliders. There have been instances of failure of the Tost Type Universal 53 glider tow couplings to disengage intentionally because of the disengaging force required when the tow cable imposes asymmetrical loads. Therefore it is proposed to add a new airworthiness directive to require the replacement of the bracket type automatic of the tow coupling with the ring type automatic in accordance with Tost Modification No. 2/65.

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 docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. All communications received on or before May 11, 1967, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

TOST. Applies to Tost Type Universal 53 glider tow couplings with Serial Numbers 1 through 29999, installed on Schempp-Hirth Models Standard Austria S, SH, and SH-1; Scheibe Flugzeugbau Models L-Spatz 55, Bergfalke II 55, and SF 26A; and Alexander Schleicher Models Ka 6 CR, Ka 6 E, K7, and K 8 B, gliders.

Compliance required within the next 100 hours' time in service after the effective date of this AD, unless already accomplished.

To reduce the release load on the glider coupling when the tow cable imposes asymmetrical loads, replace, in accordance with Tost Modification No. 2/65, dated November 9, 1965, the bracket type automatic releases of the tow coupling with ring type automatic releases that conform to the Luftfahrt-Bundesamt approved type certificate 60.290/11 or later approved issue.

Issued in Washington, D.C., on March 31, 1967.

JAMES R. RUDOLPH,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-3904; Filed, Apr. 10, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

[Release No. 34-8054]

FEES FOR FISCAL 1967 FOR BROKERS AND DEALERS NOT MEMBERS OF NATIONAL SECURITIES ASSOCIATION

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt Rule 15b9-1 (17 CFR 240.15b9-1) and to amend Form SECO-4 (17 CFR 249.504) under the Securities Exchange Act of 1934.

Sections 15(b)(8) and 15(b)(9) under the Securities Exchange Act (15 U.S.C. 78o (8) and (9)) authorize the Commission to collect such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed with respect to brokers and dealers who are registered with the Commission[1] but are not members of the National Association of Securities Dealers, Inc. ("NASD").[2]

Proposed Rule 15b9-1 (17 CFR 240.15b9-1) establishes fees for the fiscal year ending June 30, 1967 for brokers and dealers who are registered with the Commission on June 15, 1967 and who, for more than 45 days between July 1, 1966, and June 15, 1967, are not members of the NASD.

Under the proposed rule, every broker or dealer registered for at least 45 days on June 15, 1967, and who is not a member of the NASD on that date is required to pay the following fees and to file Form SECO-4-67 (17 CFR 249.504) (the assessment form), which would replace present Form SECO-4 (17 CFR 249.504) on or before June 30, 1967: (1) A base fee of $100 for each nonmember broker or dealer; (2) $5 for each associated person engaged directly or indirectly in securities activities for or on behalf of the broker or dealer at any time during the period July 1, 1966, to June 15, 1967; and (3) $30 for each office[3] of the broker or dealer open at any time during the fiscal year.

The proposed rule provides that in no case shall any broker or dealer be required to pay more than $15,000 by virtue of factors (1) and (2)—the base fee plus the fee for associated persons indicated above. The fee of $30 for each office may not be included in the computation of the $15,000 maximum.

Registered brokers and dealers who are members of the NASD on June 15, 1967, but who were both registered with the Commission and not members of such association for at least 45 days during the period from July 1, 1966, to June 15, 1967, will be required to pay only half these fees. Brokers and dealers who are registered with the Commission for more than 45 days and who are not members of the NASD on June 15, 1967, are required to pay only half these fees if their registration became effective on or after January 1, 1967.

Rule 15b8-2[4] (17 CFR 240.15b8-2) requires that brokers and dealers registering with the Commission after August 1, 1966, who do not become members of the NASD within 45 days after the effective date of their registration pay a fee of $150. The same $150 fee is required of firms whose membership in the NASD is

[1] Hereinafter referred to as "registered brokers and dealers."

[2] The NASD is the only such association registered under sec. 15A of the Securities Exchange Act.

[3] The term "office" is defined in the rule to mean every place or establishment owned or controlled by a broker or dealer in or from be deemed to own or control an office if he securities business. A broker or dealer shall be deemed to own or control an office if he pays a substantial portion of the costs thereof, including rent and taxes. The term is not intended to mean the dwelling of an associated person if a broker or dealer does not bear a substantial portion of the cost or expenses of such dwelling. It is intended, however, to including the dwelling of a sole proprietor if he conducts securities business therefrom.

[4] Announced in Securities Exchange Act Release No. 7906 (June 30, 1966) and published in the FEDERAL REGISTER of July 2, 1966 (31 F.R. 9105).

terminated after August 1, 1966, and who continue to be registered with the Commission for a period of at least 45 days after such termination of membership. Form SECO–5 (17 CFR 249.505), the initial assessment form, must be filed when this fee is paid.

Rule 15b8–2 (17 CFR 240.15b8–2) also establishes a fee of $25 for each Form SECO–2 (17 CFR 249.502) filed pursuant to Rule 15b8–1 (17 CFR 240.15b8–1) for each associated person for whom a nonmember broker or dealer has not previously filed such a form. This fee must be paid concurrently with the filing of the forms.[3]

The $150 new firm fee and $25 filing fee contained in Rule 15b8–2 (17 CFR 240.15b8–2) have been continued by paragraphs (e) and (f) of proposed Rule 15b9–1 (17 CFR 240.15b9–1). Therefore, all fees applicable to nonmember brokers and dealers are included in the proposed rule.[4]

Proposed Rule 15b9–1 (17 CFR 240.15b9–1) imposes an additional fee of $100 upon brokers and dealers who fail to pay any of the fees pursuant to paragraphs (a), (b), (c), or (d) of this rule. This additional fee is to defray the extra administrative costs incurred by the Commission as a result of such failure to comply with the rule.

Finally, proposed Rule 15b9–1 (17 CFR 240.15b9–1) exempts from the fee provisions of paragraphs (a), (b), (c), (d), and (f) of the rule members of a national securities exchange who (1) carry no customer accounts and (2) derive less than $1,000 income from over-the-counter securities transactions. Each such broker or dealer must nevertheless file Form SECO–4–67 (17 CFR 249.504) as appropriate and indicate therein whether he claims this exemption.

The text of the proposed section would read substantially as follows:

§ 240.15b9–1 Fees for registered brokers and dealers not members of a registered national securities association for fiscal 1967.

(a) Every broker or dealer registered with the Commission on June 15, 1967 who on such date has been so registered for at least 45 days and is not a member of a registered national securities association shall, on or before June 30, 1967, file Form SECO–4–67 (17 CFR 249.504) and pay to the Commission a fee for the fiscal year beginning July 1, 1966, and ending June 30, 1967. The total amount of such fee shall be the sum of the following: (1) A base fee of $100; plus (2) $5 for each associated person engaged, directly or indirectly, in securities activities for or on behalf of the broker or dealer at any time between July 1, 1966, and June 15, 1967; plus (3) $30 for each office of the broker or dealer which has been open for business at any time between July 1, 1966, and June 15, 1967.

(b) Every broker or dealer registered with the Commission and a member of a registered national securities association on June 15, 1967, who, for at least 45 days during the period from July 1, 1966, to June 15, 1967, was registered with the Commission and not a member of such an association shall, on or before June 30, 1967, file Form SECO–4–67 (17 CFR 249.504) and pay to the Commission only half the fee provided for in paragraph (a) of this section.

(c) Every broker or dealer subject to paragraph (a) of this section whose registration became effective on or after January 1, 1967, shall pay only half the fee provided for in paragraph (a) of this section.

(d) In no case shall the amount payable by any broker or dealer under items (1) and (2) of paragraph (a) of this section, taken together, exceed $15,000.

(e) (1) Every broker or dealer who becomes registered as a broker or dealer with the Commission and who does not become a member of a registered national securities association within 45 days after the effective date of such registration shall, within such 45-day period, file Form SECO–5 (17 CFR 249.505) and pay to the Commission a fee of $150.

(2) Every registered broker or dealer whose membership in a registered national securities association is terminated for any reason and who continues to be registered with the Commission for 45 days after such termination of membership shall, within such 45-day period, file Form SECO–5 (17 CFR 249.505) and pay to the Commission a fee of $150.

(f) Every broker or dealer who is registered with the Commission and not a member of a registered national securities association shall pay to the Commission a fee of $25 for each Form SECO–2 (17 CFR 249.502) filed by such broker or dealer pursuant to § 240.15b8–1, *Provided, however,* That this paragraph shall not apply to any Form SECO–2 (17 CFR 249.502) filed for any associated person (1) for whom a Form SECO–2 (17 CFR 249.502) previously had been filed by such broker or dealer, or (2) who confines his securities activities to areas outside the jurisdiction of the United States, and who does not deal with any United States resident or national.

(g) Every broker or dealer who fails to pay fees, except those required by paragraphs (e) and (f) of this section, as and when required by this section, shall pay an additional fee of $100 to defray administrative costs incurred by the Commission as a result of such failure.

(h) Any broker or dealer who is a member of a national securities exchange shall not be required to pay the fees pursuant to the foregoing paragraphs (a), (b), (c), (d), and (f) of this section if (1) he carries no accounts of customers, and (2) his annual gross income derived from purchases, sales, and exchanges of securities otherwise than on a national securities exchange is in an amount no greater than $1,000. Each such broker or dealer shall nevertheless file Form SECO–4–67 (17 CFR 249.504) as required by this section.

(i) No broker or dealer subject to this section shall effect any transaction in, or induce the purchase, sale, or exchange of, any security otherwise than on a national securities exchange unless he has complied with the applicable provisions of this section.

(j) For the purposes of this section:

(1) The term "associated person" shall mean any partner, officer, director, or branch manager of a broker or dealer (or any person occupying a similar status of performing similar functions), or any natural person directly or indirectly controlling or controlled by such broker or dealer (other than employees whose functions are clerical or ministerial), and any broker or dealer conducting business as a sole proprietor.

(2) The term "office" shall mean every place or establishment which is owned or controlled by a broker or dealer in or from which the broker or dealer engages in the securities business.

(Secs. 15(b)(8), 15(b)(9), and 23(a); 78 Stat. 572–3, 48 Stat. 901, as amended, 15 U.S.C. 78o, 78w)

In connection with proposed Rule 15b9–1 (17 CFR 240.15b9–1), it is proposed that Subpart F or Part 249 of Chapter II of Title 17 of the Code of Federal Regulations be changed by amending § 249.504, as follows:

§ 249.504 Form SECO–4–67, 1967 assessment and information form for registered brokers and dealers not members of a registered national securities association.

(Copies of this form have been filed with the original of this document. Additional copies will be available at the Commission's headquarter's office in Washington, D.C., and its regional offices.)

All interested persons are invited to submit their reviews and comments on the above proposals, in writing, to the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, on or before May 8, 1967. Except where it is requested that such recommendations not be disclosed, they will be considered available for public inspection.

By the Commission.

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

APRIL 10, 1967.

[F.R. Doc. 67–4008; Filed, Apr. 10, 1967; 8:50 a.m.]

[3] This fee does not apply to Forms SECO–2 (17 CFR 249.502) filed for associated persons who confine their securities activities to areas outside the jurisdiction of the United States and who do not deal with any U.S. residents or nationals.

[4] The reference in Rule 15b8–2 (17 CFR 240.15b8–2) to Forms SECO–2 (17 CFR 249.502) filed after Aug. 1, 1966, and broker-dealer registrations which become effective after that date are obsolete and are eliminated in Rule 15b9–1 (17 CFR 240.15b9–1).

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Order No. 147-2]

BUREAU OF NARCOTICS

Transfer of Functions

MARCH 23, 1967.

By virtue of the authority vested in the Secretary of the Treasury, and by virtue of the authority vested in me by Treasury Department Order No. 190, Revision 4, it is hereby ordered that staff and operations services will be furnished by the Bureau of Narcotics to the U.S. representative to the International Criminal Police Organization (Interpol). These services will be performed under the supervision of the Commissioner of Narcotics, and will consist of receipt, transmittal, processing, and handling of correspondence, inquiries, investigative referrals and the like from and to the Secretariat of Interpol and its individual national bureaus. Policy questions relating to Interpol dues, Interpol functions, obligations of membership, and agenda of and representation at Interpol Conferences and General Assembly sessions will continue to be referred to the Director, Office of Law Enforcement Coordination, as the U.S. representative to Interpol.

Such positions, records, and equipment which are determined by the Assistant Secretary for Administration and the Commissioner of Narcotics to be necessary to the performance of the staff and operations services described above shall be transferred from the Office of the Secretary to the Bureau of Narcotics. Such funds as are necessary to the performance of the said services shall, for the period July 1, 1967, through June 30, 1968, be transferred to the Bureau of Narcotics, and an appropriate reimbursement to the Bureau of Narcotics shall be made for the current fiscal year by the Office of the Secretary.

[SEAL] JOSEPH W. BARR,
Under Secretary of the Treasury.

[F.R. Doc. 67-3923; Filed, Apr. 10, 1967; 8:47 a.m.]

[Dept. Order No. 147-3]

EXECUTIVE ASSISTANT TO THE SPECIAL ASSISTANT (FOR ENFORCEMENT)

Designation as Acting Director, Office of Law Enforcement Coordination

MARCH 23, 1967.

By virtue of the authority vested in the Secretary of the Treasury, and by virtue of the authority vested in me by Treasury Department Order No. 190, Revision 4, Executive Assistant to the Special Assistant (for Enforcement) Anthony A. Lapham is designated, effective 12:01 a.m., March 27, 1967, to serve as Acting Director, Office of Law Enforcement Coordination, with the authority to perform all functions, without limitation, now authorized to be performed by the Director, Office of Law Enforcement Coordination. Mr. Lapham will continue to serve in this capacity until further notice.

[SEAL] JOSEPH W. BARR,
Under Secretary of the Treasury.

[F.R. Doc. 67-3924; Filed, Apr. 10, 1967; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Geological Survey

EXECUTIVE OFFICER ET AL.

Delegation of Authority

APRIL 4, 1967.

The following material is a revision of that portion of the Geological Survey Manual and the numbering system is that of the Manual. (Part 205, General Redelegations, Chapter 4 Procurement) (27 F.R. 2574 and amendment 28 F.R. 3704 are revoked.)

.1 *Delegation.* Under authority delegated to heads of bureaus by the Secretary of the Interior in Departmental Manual, Part 205, General Delegations dated November 30, 1961 (26 F.R. 11748), redelegation of authority to officials and employees of the Geological Survey is hereby made.

.2 *Exercise of authority.* The redelegation hereby made is of authority, on behalf of the United States and the Geological Survey, to enter into contracts for construction, supplies, or services, in conformity with applicable regulations and statutory requirements and subject to the availability of appropriations; with respect to any such contract, to issue change orders and extra work orders pursuant to the contracts, to enter into modifications of the contract which are legally permissible, and to terminate the contract if such action is legally authorized. This authority is redelegated under categories depending upon the amount involved.

A. Irrespect of the amount involved to:

Executive Officer.

B. With respect to contracts for helicopter services not exceeding $100,000 in amount, to:

Procurement Officer, Management Officer, Denver, Colo., Management Officer, Menlo Park, Calif.

C. With respect to contracts not exceeding $25,000 in amount, to:

Chief, Branch of Service and Supply, Procurement Officer, Contract Specialists.

D. With respect to contracts not exceeding $10,000 in amount, to:

Assistant Procurement Officer, Management Officer, Denver, Colo., Management Officer, Menlo Park, Calif.

E. With respect to contracts not exceeding $5,000 in amount, to:

Management Officer, Anchorage, Alaska.

W. T. PECORA,
Director.

[F.R. Doc. 67-3913; Filed, Apr. 10, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[P. & S. Docket No. 3824]

GREEN CITY AUCTION CO., INC.

Notice of Complaint, Order of Suspension, and Hearing Regarding Respondent's Schedule of Rates and Charges

In re Green City Auction Co., Inc., Green City, Mo., respondent.

Notice is hereby given that on March 21, 1967, the respondent filed a tariff under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), containing certain changes in its current schedule of rates and charges, to become effective on April 1, 1967. The amended schedule of rates and charges reads as follows:

ITEM NO. I—DEFINITIONS, SERVICES

SECTION 1. *Selling commission.* a. The selling commission consists of the charge made by the company for the selling services performed in respect to consigned livestock.

SEC. 2. *Yardage.* a. Includes suitable facilities and services for:

Receiving and handling, safeguarding against loss, feeding, holding, weighing, delivery and shipment of livestock.

SEC. 3. *Veterinary livestock inspection.* a. Includes inspection services of accredited veterinarians under State and Federal livestock sanitary regulations.

SEC. 4. *Feed.* a. All feeding at the market shall be done by the company or under its direction.

b. All feed charges are based on the quantity and type of feed fed.

ITEM NO. II—CHARGE CLASSIFICATION

SECTION 1. *Selling commission.* a. All cattle, sheep, and goats.

(1) First $500.00 of each consignment—3 percent of the gross proceeds.

(2) All over $500.00 of each consignment—2 percent of the gross proceeds.

b. All hogs—1 percent of the gross proceeds.

c. Horses and mules—$2.00 per head.
d. Special cattle sales—2 percent of the gross proceeds.
e. Special breeding cow sales—3 percent of the gross proceeds.

SEC. 2. *Yardage.* a. Cattle, horses, and mules, $0.10 per head.
b. Hogs, sheep, and goats, $0.05 per head.

SEC. 3. *Veterinary livestock inspection.* a. All livestock, $0.05 per head.

SEC. 4. *Feed.* a. All feed, as fed, shall be charged for at cost f.o.b. the market.

SEC. 5. *Special or unusual services.* a. Special selling and stockyard services, such as involved in featured registered cattle and calf sales, not usually required in handling livestock for sale and other than specified, will be charged for under special arrangement.

ITEM NO. III—BUYING ON COMMISSION

SECTION 1. *Definition.* a. Consists of those services best applied to accomplish the purchase of livestock on a commission basis.

SEC. 2. *Charge classification.* a. Services performed in this respect are without charge.

ITEM NO. IV—GENERAL PROVISIONS

SECTION 1. *Code of business standards.* a. The company subscribes to the Code of Business Standards of Certified Livestock Markets, as adopted by them through their business trade association.

SEC. 2. *Allocation of pens.* a. All pens, chutes, and alleys are the property of the company and may not be claimed by any patron for his exclusive use. The management will assign pens and may change such assignment without advance notice.

SEC. 3. *Title to livestock.* a. Title to all animals consigned for sale remains in the consignor until the time sold. Time of sale shall be at the time the highest bid is accepted unless the sale is conditional or unless proof of title in consignor fails.

Notice is given hereby also that on March 30, 1967, the Acting Director of the Packers and Stockyards Division, Consumer and Marketing Service, issued a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondent's rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereafter referred to as the Act.

I. The respondent is now, and at all times mentioned herein was, registered with the Secretary of Agriculture as a market agency to sell livestock on a commission basis at the Green City Auction Co., Inc., stockyard, Green City, Mo. (hereinafter referred to as the stockyard), which is now, and at all times mentioned herein was, a posted stockyard subject to the provisions of the Act.

II. In accordance with the requirements of the Act, the respondent has heretofore filed and presently has in effect a schedule of rates and charges for the stockyard services furnished by it at the stockyard.

III. On March 21, 1967, the respondent filed a tariff effective April 1, 1967, containing certain changes in the current schedule of rates and charges.

IV. Upon an analysis of the information available to the Packers and Stockyards Division, Consumer and Marketing Service, U.S. Department of Agriculture, there is reason to believe that such changes are unjust, unreasonable, or discriminatory.

V. It is concluded, therefore, that a proceeding under Title III of the Act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondent's schedule of rates and charges as modified by the tariff filed on March 21, 1967, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI. It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondent and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondent of the modifications of the current schedule of rates and charges filed on March 21, 1967, to become effective on April 1, 1967, are hereby suspended and deferred until the expiration of 30 days beyond the time when such tariff would otherwise go into effect.

It is further ordered, That notice to the respondent shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Examiner of the Department at a time and place to be specified at a later date, of which the respondent will receive adequate notice. At such hearing the respondent and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 20 days from the date of the publication hereof in the FEDERAL REGISTER.

It is further ordered, That a copy hereof be served upon the respondent.

It is further ordered, That this document be published in the FEDERAL REGISTER.

Done at Washington, D.C., this 6th day of April 1967.

GLENN G. BIERMAN,
Acting Director, Packers and Stockyards Division, Consumer and Marketing Service.

[F.R. Doc. 67-3949; Filed, Apr. 10, 1967; 8:49 a.m.]

[Docket No. AO 362]

FROZEN CONCENTRATED ORANGE JUICE IN FLORIDA

Determination Relative to Proposed Marketing Agreement

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held in Lakeland, Fla., on December 19–20, 1966, after notice thereof published in the FEDERAL REGISTER (31 F.R. 15594) upon a proposed marketing agreement regulating the handling of frozen concentrated orange juice in Florida. The decision of the Assistant Secretary setting forth the proposed marketing agreement was published in the FEDERAL REGISTER on January 20, 1967 (32 F.R. 680); and handlers were afforded opportunity to enter into this agreement (32 F.R. 4547).

It is hereby determined that the issuance of the proposed marketing agreement regulating the handling of frozen concentrated orange juice in Florida has not been executed by handlers of the requisite quantity of concentrate produced in Florida during the 1965–66 season.

It is hereby further determined that the proposed marketing agreement as set forth in the Assistant Secretary's decision of January 16, 1967 (32 F.R. 680), will not be entered into.

Done at Washington, D.C., this 5th day of April 1967.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-3950; Filed, Apr. 10, 1967; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 22(66)-5]

SCHWEISSTECHNIK G.M.B.H.

Order Denying Export Privileges for Indefinite Period

In the matter of Schweisstechnik G.m.b.H., Rauscherstrasse 23, A-1200, Vienna, Austria; 26 Humboldstrasse, Linz/Donau, Austria; and 56 Annenstrasse, Graz/Styria, Austria; respondent; File No. 22(66)-5.

The Director, Investigations Division, Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, has applied for an order denying to the above-named respondent all export privileges for an indefinite period because the said respondent, without good cause being shown, failed to furnish answers to interrogatories, failed to furnish certain records and other writings specifically requested, and failed to make available for inspection certain specific commodities exported to it from

the United States. This application was made pursuant to § 382.15 of the Export Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations).

In accordance with the usual practice, the application for an Indefinite Denial Order was referred to the Compliance Commissioner, Bureau of International Commerce, who after consideration of the evidence has recommended that the application be granted. The report of the Compliance Commissioner and the evidence in support of the application have been considered.

The evidence presented shows that the respondent Schweisstechnik G.m.b.H. is a limited liability company with a principal place of business in Vienna, Austria, and with branch offices in Linz/Donau and Graz/Styria, Austria; that the company is selling agent and distributor of welding equipment in Austria and other European countries; that it acts in this capacity for several firms, at least one of which is a U.S. firm; that in the period from February 22, 1965, to about May 24, 1966, the respondent purchased and received from said firm in the United States nine shipments of commodities; that some of said commodities could properly be exported to Austria under General License, but required validated licenses for exportation or reexportation to certain other countries; and that certain of such commodities received by respondent were exported to it from the United States under General License. The aforesaid Investigations Division is conducting an investigation into the disposition by said respondent of said commodities. It is impracticable to subpoena the respondent, and relevant and material interrogatories relating to its disposition of said commodities were served on it pursuant to § 382.15 of the Export Regulations. The respondent also, pursuant to said section, was requested to furnish certain specific documents relating to the disposition of said commodities and, if said commodities were still in its possession, to make them available for inspection. Said respondent has failed to furnish answers to said interrogatories, to furnish the documents requested, or to make said commodities available for inspection as required by said section, and it has not shown good cause for such failure. I find that an order denying export privileges to said respondent for an indefinite period may properly be entered under section 382.15 of the Export Regulations and that such an order is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Control Act of 1949, as amended.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondent appears or participates in any manner or capacity are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondent, its successors, 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 United States 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 its agents, employees, representatives, and partners and to any other person, firm, corporation, or business organization with which the respondent 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 shall remain in effect until the respondent provides responsive answers, written information and documents in response to the interrogatories heretofore served upon it and makes available for inspection the commodities specified, or gives adequate reasons for failure to do so, except insofar as this order may be amended or modified hereafter in accordance with the 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 on respondent.

VII. In accordance with the provisions of § 382.15 of the Export Regulations, the respondent may move at any time to vacate or modify this Indefinite Denial Order by filing with the Compliance Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested shall be held before the Compliance Commissioner at Washington, D.C., at the earliest convenient date.

This order shall become effective on April 8, 1967.

Dated: April 3, 1967.

RAUER H. MEYER,
Director,
Office of Export Control.

[F.R. Doc. 67-3897; Filed, Apr. 10, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CHAS. PFIZER & CO., INC.

Notice of Filing of Petition for Food Additives Oxytetracycline, Carbomycin

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 has been filed by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017, proposing the issuance of a regulation to provide for the safe use of a combination drug containing oxytetracycline and carbomycin to be administered to chickens in drinking water for the prevention and treatment of complicated chronic respiratory disease (CRD, air-sac infection).

Dated: April 4, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-3930; Filed, Apr. 10, 1967; 8:48 a.m.]

MASONITE CORP.

Notice of Filing of Petition for Food Additive Hemicellulose Extract

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 has been filed by Masonite Corp., 29 North Wacker Drive, Chicago, Ill. 60606, proposing that § 121.275 *Hemicellulose extract* be amended in the following respects:

1. By revising paragraph (b) to read:

(b) The additive may be used in a liquid or dry state with the liquid product containing not less than 55 percent carbohydrate and the dry product not less than 84 percent carbohydrate.

2. By deleting from paragraph (c) the limitation that the additive is to be used at levels not to exceed 10 percent of the total diet.

3. By deleting from paragraph (d)(2) the requirement that the label and labeling of the additive bear suggested feeding levels for various species.

Dated: April 4, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.F. Doc. 67-3931; Filed, Apr. 10, 1967; 8:48 a.m.]

Office of Education

RECEIPT OF PUBLIC LAW 81-815 APPLICATIONS

Notice of Second Cutoff Date, Fiscal Year 1967

Pursuant to the authority vested in me by section 3 of Public Law 81-815 (20 U.S.C. 633) and 45 CFR 114.20, notice is hereby given of the following cutoff date:

For the purposes of sections 3 and 14 of Public Law 81-815, June 26, 1967, is hereby set as the second date during fiscal year 1967 on or before which complete applications for payments to which an applicant may be entitled under the Act from such funds as may be available for such purposes shall be filed.

Dated: April 5, 1967.

HAROLD HOWE II,
U.S. Commissioner of Education.

[F.R. Doc. 67-3925; Filed, Apr. 7, 1967; 12:40 p.m.]

Office of the Secretary

HOSPITAL AND MEDICAL CARE AND TREATMENT

Recovery of Cost; Delegations of Authority

The Statement of Organization and Delegations of Authority of the Office of the Secretary published in 22 F.R. 1045 and amended by 30 F.R. 250 is hereby amended to raise from $5,000 to $20,000 the amounts for which the General Counsel may settle claims for the recovery from tortiously liable third parties of the cost of hospital and medical care furnished by the Department, so that the section will read as follows:

SEC. 2-300.50 *Delegation by the Secretary of authority relating to recovery of the cost of hospital and medical care and treatment under Public Law 87-693.* (a) Pursuant to the authority granted by P.L. 87-693 (76 Stat. 593, 42 U.S.C. 2651 et seq.) and in accordance with the regulations of the Attorney General (28 CFR Part 43), the General Counsel is authorized, in connection with any claim for the recovery of the reasonable value of hospital and medical care and treatment furnished by this Department to (1) accept the full amount of a claim and execute a release therefore, (2) compromise or settle and execute a release of any claim not in excess of $20,000 which the United States has for the reasonable value of such care or treatment, or (3) waive and in this connection release any claim, not in excess of $20,000, in whole or in part, either for the convenience of the Government, or if he determines that collection would result in undue hardship upon the person who suffered the injury or disease for which the care and treatment were furnished, and (4) with the prior approval of the Department of Justice, compromise, settle, or waive any claim in excess of $20,000 and execute a release therefor.

(b) The General Counsel may redelegate to other attorneys of the Office of the General Counsel any of the authority delegated to him by paragraph (a).

SEC. 2-300.50-1. *Redelegations by the General Counsel.* The General Counsel has redelegated to the Assistant General Counsel and the Assistant Chief of the Public Health Division, Office of the General Counsel, and the attorney in that Division designated as legal advisor to the Division of Direct Health Services, Bureau of Health Services, Public Health Service, the authorities delegated to the General Counsel by section 2-300.50 above.

Dated: April 3, 1967.

[SEAL] WILBUR J. COHEN,
Acting Secretary.

[F.R. Doc. 67-3932; Filed, Apr. 10, 1967; 8:48 a.m.]

AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD

BORG-WARNER CORP.

Petition for Determination of Eligibility To Apply for Adjustment Assistance by Certain Workers

Determinations of the Board. Pursuant to the Automotive Products Trade Act of 1965 (Public Law 89-283; 79 Stat. 1016) the Automotive Agreement Adjustment Assistance Board determines that:

Dislocation of workers in the Memphis, Tenn., plant of the Mechanics Universal Joint Division, Borg-Warner Corp., has occurred, since a significant number or proportion of the workers have become unemployed.

The operation of the United States-Canadian Automotive Products Agreement has not been the primary factor in causing such dislocation (section 302, Act; section 501.9, Board Regulations).

Background. A petition for a determination of eligibility to apply for adjustment assistance under the Automotive Products Trade Act of 1965 was filed with the Automotive Agreement Adjustment Assistance Board on December 19, 1966, by the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America, on behalf of a group of workers who had been employed in the Memphis, Tenn., plant of the Mechanics Universal Joint Division of the Borg-Warner Corp. The petition alleged that the loss of orders from the American Motors Corp. for universal joints was the reason for the layoff of a total of 130 employees in June and July 1966. The petition further alleged, in effect, that the operation of the United States-Canadian Automotive Agreement was the primary factor in causing the layoffs.

On December 27, 1966, the U.S. Tariff Commission, in response to a request from the Automotive Assistance Committee of the Board, instituted an investigation of the facts relating to this petition (31 F.R. 16722, Dec. 30, 1966). A public hearing was not requested by any interested party and none was held.

The Tariff Commission submitted its report on February 15, 1967 (APTA-W-5). The Commission stated that only certain sections of the report could be made public since much of the data it contains were received in confidence (32 F.R. 3070, Feb. 18, 1967). On March 1, 1967, in accordance with section 302(f)(2) of the Act, the Automotive Assistance Committee of the Board requested the Commission to furnish additional information on certain specified matters. A supplemental confidential report was submitted to the Board on March 27, 1967.

The Board also obtained advice from the Departments of the Treasury, Commerce, Labor, and the Small Business Administration under section 302(f)(1) of the Act.

The Borg-Warner Corp. The Borg-Warner Corp. is a diversified company which operates about 55 plants. The Mechanics Universal Joint Division operates plants in Rockford, Ill., and Memphis, Tenn., for the manufacture of universal joint-drive shaft assemblies and parts of such assemblies for motor vehicles. Almost all production at this plant was for use as original equipment in the manufacture of automobiles. During 1966 approximately 84 percent of original equipment production at the Memphis plant was sold to Ford Motor Co. and 15 percent to American Motors Co. (AMC).

Starting with 1967 models, the bulk of the production of universal joints for Ford was transferred to another plant located in the United States. On June 10, 1966, 48 workers were laid off at the Memphis plant and on July 29 an additional 82 workers were laid off.

Beginning with 1967 models, American Motors also switched sources for its universal joints; however, production for 1967 model AMC cars was continued at Memphis until the fourth quarter of 1966 when output began at the new source in Canada. These drive shaft assemblies are currently being produced by the Hayes Steel Products Co. in Ontario, Canada.

At the same time that AMC business was moving to Canada there was a further decline in output of the universal joints being produced for Ford. The de-

cline in non-AMC production was more than 50 percent greater than that for AMC. Between September 1966 and January 1967 net hourly worker employment at Memphis declined by 12 persons.

Conclusions and determinations—Automotive product. The Board concludes that the petitioners were employed in a plant of the Borg-Warner Corp. manufacturing an automotive product as defined by the Act: universal joints primarily for use as original equipment in the assembly of motor vehicles.

Dislocation. Dislocation in the case of a group of workers means actual or threatened unemployment or underemployment of a significant number or proportion of the workers of a firm or an appropriate subdivision thereof. Between January 1966 and January 1967 employment of hourly workers at the Memphis plant of the Borg-Warner Corp. declined from about 285 to approximately 150 persons. Universal joints for Ford and for AMC were made on production lines which could not be separately identified; practically all the workers in the plant were involved in the production of the automotive product concerned.

The Board determines that the entire Memphis plant of the Mechanics Universal Joint Division is the "appropriate subdivision" of the Borg-Warner Corp. and that a significant number or proportion of the workers thereof have been dislocated (section 302(b)(1), Act; section 501.2(i)(2), Board Regulations).

Role of the operation of the Agreement. Pursuant to section 302(b)(2) and (3) of the Act, the Tariff Commission obtained data indicative of U.S. production, U.S. imports from Canada, U.S. exports to Canada, and Canadian production of universal joints for use as original equipment in the assembly of motor vehicles. On the basis of these data the Board determines that recent U.S. production of universal joints is greater than that in model year 1964 and therefore section 302(b)(2) of the Act is not satisfied.

Therefore, the Board considered whether the operation of the Agreement has nevertheless been the primary factor in causing or threatening to cause the dislocation of the group of workers (section 302(d), Act). The Act (section 302(1)(4)) defines the "operation of the Agreement" to include governmental or private action in the United States or Canada directly related to the conclusion or implementation of the Agreement. "Primary factor" means a factor which is greater in importance than any other single factor present in a given case, but which does not have to be greater than any combination of other factors (section 501.2(j), Board Regulations).

The American Motors Corp. switched sources for universal joints for certain models from Borg-Warner to a Canadian manufacturer, but the actual transfer was delayed from the start of the 1967 model year until the fourth quarter of 1966. The Memphis plant continued to manufacture such universal joints through October and November. The sharp decline in production and employment at the plant in June and July, mainly resulted from the transfer of output for the Ford Motor Co. to another plant in the United States. Although there was some decline in employment subsequent to the shift of the AMC business to Canada, there were appreciably greater simultaneous declines in output of universal joints for Ford.

Accordingly, the Board determines that the operation of the United States-Canadian Automotive Products Agreement has not been the primary factor in causing the dislocation of workers at the Mechanics Universal Joint Division plant in Memphis, Tenn.

(Sec. 302, Automotive Products Trade Act of 1965, 79 Stat. 1018, Executive Order 11254, 30 F.R. 13569, the Automotive Agreement Adjustment Assistance Board Regulations, 48 CFR, Part 501; 31 F.R. 827, and Board Order No. 1, 31 F.R. 853)

AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD,
EDGAR I. EATON,
Executive Secretary.

APRIL 6, 1967.

[F.R. Doc. 67-3953; Filed, Apr. 10, 1967; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17302, 17303; FCC 67M-564]

BELL TELEPHONE COMPANY OF PENNSYLVANIA AND CONESTOGA TELEPHONE AND TELEGRAPH CO.

Order Continuing Prehearing Conference

In re applications of The Bell Telephone Company of Pennsylvania, Docket No. 17302, File No. 1688-C2-P-66, for a construction permit to modify the facilities of Station KGA585 in the Domestic Public Land Mobile Radio Service at Philadelphia, Pa.; The Conestoga Telephone and Telegraph Co., Docket No. 17303, File No. 679-C2-P-66, for a construction permit to establish new facilities in the Domestic Public Land Mobile Radio Service near Boyertown, Pa.

Upon the Hearing Examiner's own motion: *It is ordered*, This 4th day of April 1967, that the hearing conference now scheduled for April 21, 1967, be and the same is hereby rescheduled for April 27, 1967, 9 a.m., in the Commission's offices, Washington, D.C.

Released: April 5, 1967.

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

[F.R. Doc. 67-3936; Filed, Apr. 10, 1967; 8:48 a.m.]

[Docket No. 17175; FCC 67M-560]

NORMAN W. HENNIG

Order Governing Course of Hearing

In re application of Norman W. Hennig, Tucumcari, N. Mex., Docket No. 17175, File No. BP-15523; for construction permit.

A further prehearing conference was held on March 30, 1967, at which time the absence of counsel for the applicant or the applicant himself was noted on the record. As has been previously stated by the Review Board "one who chooses to proceed without the benefit of counsel must assume responsibility for a full knowledge of the rules or suffer the consequences of failure to comply." (Geoffrey A. Lapping, 24 RR 446)

It was nevertheless decided without opposition that a further prehearing conference would be scheduled at which time all parties would be expected to attend or be represented.

Accordingly, it is ordered, That a further prehearing conference will be held on May 16, 1967 at 2 p.m., and the announced scheduled hearing date of April 19, 1967, is canceled.

Dated: April 3, 1967.

Released: April 5, 1967.

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

[F.R. Doc. 67-3937; Filed, Apr. 10, 1967; 8:48 a.m.]

[Docket Nos. 16609, 16610; FCC 67M-563]

NORTHWEST BROADCASTERS, INC. (KBVU), AND BELLEVUE BROADCASTERS (KFKF)

Order Rescheduling Hearing

In re applications of Northwest Broadcasters, Inc. (KBVU), Bellevue, Wash., Docket No. 16609, File No. BR-4369, for renewal of license of KBVU; F. Kemper Freeman, Elwell C. Case, and Mrs. Florence G. Hayes, doing business as Bellevue Broadcasters (KFKF), Bellevue, Wash., Docket No. 16610, File No. BP-17059, for construction permit.

A prehearing conference having been held on April 4, 1967, whereat certain agreements were reached and certain rulings were made:

It is ordered, This 4th day of April 1967, that:

(1) The parties' direct affirmative cases shall be presented insofar as possible in the form of sworn, written exhibits, but may be supplemented by oral testimony;

(2) Copies of all exhibits will be exchanged informally on or before May 22, 1967: *Provided*, That such exhibits may be modified before the formal exchange established at clause 4, infra.

(3) On or before May 22, 1967, the parties shall exchange a list identifying those witnesses whose oral testimony they propose to offer, together with a general statement as to the facts each witness will be offered to prove;

(4) On or before June 12, 1967, there shall be a formal exchange of exhibits in their final form;

(5) Any party wishing to call for cross-examination any witness sponsoring the exhibit of another party shall

give notification thereof on or before June 15, 1967; and

It is further ordered, That hearing shall commence on June 20, 1967, at 10 a.m., in the offices of the Commission at Washington, D.C.

Released: April 5, 1967.

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

[F.R. Doc. 67-3938; Filed, Apr. 10, 1967; 8:48 a.m.]

[Docket Nos. 17334, 17335; FCC 67-391]

SUSQUEHANNA BROADCASTING CO. ET AL.

Memorandum Opinion and Order Instituting Consolidated Hearing

In re petitions by Susquehanna Broadcasting Co., York, Pa., Docket No. 17334, File No. CATV 100-15; D and E Cable TV, Inc., Adamstown, Akron, Denver, Ephrata, Lititz, and Manheim, Pa., File No. CATV 100-63; Peoples Broadcasting Co., Lancaster, Manheim Township, Manor Township, Warwick Township, Lancaster Township, East Lampeter Township, West Lampeter Township, and West Hempfield Township, Pa., File No. CATV 100-76; Valley Video Cable Co., Derry Township, Pa., File No. CATV 100-127; West Shore TV Cable Co., Silver Spring Township, Monroe Township, Mechanicsburg, Upper Allen Township, Shiremanstown, Lower Allen Township, and Fairview Township, Pa., File No. CATV 100-136; Lebanon Valley Cable TV Co., Lebanon, Pa., File No. CATV 100-149; H. C. Ostertag Cable TV Co., Columbia, Pa., Docket No. 17335, File No. CATV 100-158; for authority pursuant to § 74.1107 to serve and operate CATV systems in the Harrisburg-Lancaster-Lebanon-York, Pa., television market (ARB, 29); and D and E Cable TV Inc., Adamstown, Akron, Denver, Ephrata, Lititz, and Manheim, Pa.; Peoples Broadcasting Co., Lancaster, Manheim Township, Manor Township, Warwick Township, Lancaster Township, East Lampeter Township, West Lampeter Township, and West Hempfield Township, Pa.; H. C. Ostertag Cable TV Co., Columbia, Pa., for declaratory ruling on or waiver of the provisions of § 74.1103 of the Commission's rules. In re application of West Shore Cable Co., File No. BPCAR-32, for construction permit to establish a station in the community antenna relay service.

1. The following proposals in the Harrisburg-Lancaster-Lebanon-York, Pa., television market, ranked 29th, are before us for consideration: (a) Susquehanna Broadcasting Co. proposes to operate a CATV system in York, Pa., and to carry in addition to the six market channels and the three Baltimore network affiliated channels, the distant signals of three Philadelphia network channels, two Philadelphia independent channels, one Washington network affiliated channel, one Washington independent channel and one Washington educational channel; (b) D and E Cable TV Inc. intends to operate a CATV system in Adamstown, Akron, Denver, Ephrata, Lititz, and Manheim, Pa., and to carry in addition to market Channels 8, 15, 21, 27, and *33 and local Philadelphia Channels 3, 6, and 10, Philadelphia Channels 48 (distant as to Lititz and Manheim), 17 (distant as to Akron, Denver, Lititz, and Manheim) and 29 (distant as to Manheim); (c) Peoples Broadcasting Co. would operate a CATV system in Lancaster, and Lancaster, Manheim, Manor, Warwick, East Lampeter, West Lampeter, and West Hempfield Townships, and would carry in addition to the six market channels, Philadelphia Channels 3, 6, 10, and 48, Baltimore Channels 2, 11, and 13, the distant signals of two Philadelphia independent channels and one Washington independent channel; (d) Valley Video Cable Co. proposes to initiate a CATV system in Derry Township, Pa., and to carry the six market stations, three Baltimore network affiliates, and to carry distant Philadelphia network affiliated channels and one Philadelphia independent channel; (e) West Short TV Cable Co. would construct a CATV system in Mechanicsburg, Shiremanstown, and Silver Spring, Monroe, Upper Allen, Lower Allen, and Fairview Townships, Pa., and would carry in addition to the six market channels and Baltimore Channel 2, the distant signals of Baltimore Channels 11 and 13, two Philadelphia network channels, one Philadelphia independent channel and one Washington independent channel; (f) Lebanon Valley Cable TV Co. plans to operate a CATV system in Lebanon, Pa., and to carry in addition to local market channels and the Philadelphia network channels, the distant signals of three Philadelphia independent channels; (g) H. C. Ostertag Cable TV Co. proposes a CATV system to serve Columbia, Pa., and would carry, in addition to the six market channels, Baltimore network affiliated channels, and Philadelphia network affiliated Channels 3 and 6, the distant signals of the third Philadelphia network affiliated channel, four Philadelphia independent channels, one Washington independent channel, one prospective Baltimore independent channel, and the Wilmington educational channel. The petitioners (Susquehanna Broadcasting filed on Apr. 15, 1966; D and E Cable first filed on July 5, 1966, and amended on Nov. 1, 1966, and Jan. 20, 1967; Peoples Broadcasting on July 21, 1966; Valley Video on Nov. 4, 1966; West Shore on Nov. 22, 1966; Lebanon Valley on Dec. 28, 1966; and, Ostertag Cable on Jan. 12, 1967) request waiver of the rules to implement their proposals.

2. The Harrisburg-Lancaster-Lebanon-York market has a total 1966 net weekly circulation of 494,200. The market cities themselves form an approximate 20-mile square, with Harrisburg to the northwest, Lebanon to the northeast, Lancaster (about 60 miles west of Philadelphia) to the southeast, and York (about 18 miles north of the Pennsylvania-Maryland border) to the southwest. Harrisburg has Channels 21, 2, and *33 assigned to it. Stations are operating on all three channels. Lancaster has Channels 8 and 15 assigned to it; stations are operating on both channels. Lebanon has Channel 59 assigned to it which has not been applied for. York has Channels 43 and 49 assigned to it; a station is operating on Channel 43, and an application is pending for Channel 49. York, a city of 54,504, of course is within the York Urbanized Area (100,872) and Standard Metropolitan Statistical Area (238,336) which is composed of York County. In northwestern York County is Fairview Township (6,530) and abutting the northwest boundary of York County is Cumberland County (124,816) containing Mechanicsburg (8,123), Shiremanstown (1,212), and Monroe (2,298), Upper Allen (2,631), Lower Allen (11,614), and Silver Spring (4,044) Townships. Cumberland County and Dauphin County (220,255) make up the Harrisburg (79,697) Standard Metropolitan Statistical Area (345,071). About 7 miles east of Harrisburg in Dauphin County is Derry Township (12,388). Mechanicsburg, Shiremanstown, and parts of Lower Allen and Fairview Townships are in the Harrisburg Urbanized Area (209,501). To the northeast of Harrisburg and Derry Township is Lebanon (30,045) in Lebanon County (90,853). South of Lebanon, and midway between York and Lancaster (61,055) in Lancaster County (278,359) is Columbia (12,075), which is also in West Hempfield Township (5,318). To the south, and connecting West Hempfield Township with Lancaster Township (10,020) is Manor Township (6,939). Lancaster Township, West Lampeter Township (5,520), East Lampeter Township (7,399) and Manheim Township (14,855) surround Lancaster on the south, east, and north. Adjoining Manheim Township on the north is Warwick Township (4,716) which contains Lititz (5,987). Still in Lancaster County, Manheim (4,790) is west of Lititz, and east of Lititz is Akron (2,167). Ephrata (7,688) is northeast of Akron, and Denver (1,875) is northeast of Ephrata. Adamstown (1,190) is east of Denver. The Lancaster Standard Metropolitan Statistical Area (278,.359) is composed of Lancaster County; and Lancaster, Lancaster Township, and parts of East and West Lampeter, Manor, and Manheim Townships are in the Lancaster Urbanized Area (93,855). The area is shown in the map below.[1a]

3. While the importation of the signals of distant commercial stations by petitioners herein is not opposed by any UHF broadcasters, the oppositions are generally based on contentions that an insufficient factual showing has been made as to prospective impact on television broadcasting in the market, and that implementation of the proposals would have a more serious impact on small UHF stations, e.g., idle Channel 59 in Lebanon, and 49 in York, than on others. The opponents also argue that there is already a wide diversity of signals in the market, and that because of the unique market which has been penetrated extensively by CATVs, the cumulative effect of addi-

[1a] Map filed as part of original document.

tional CATV systems would be greater fragmentation of audiences. Opposition to the importation of distant educational channels is largely based on probable disruption of the Pennsylvania plan for educational television. But the proponents point out that while there are a number of signals in the market, the programing is almost entirely network, and that the proposals would provide diversity of programing as well as improve reception. They argue that the importation of distant independent and other channels are necessary for economic viability in a market which is somewhat unique, having no core city and being dominated by one network VHF broadcast station. They point out that the difficulty of reception of signals, and the desire for expanded variety of programing, have fostered considerable CATV activity in the area, and contend that additional systems will have a minimal impact particularly on independent UHF television broadcast development which has been previously unsuccessful in the market. In fact, they argue, the proposals may well assist in such development. They also believe that the market network stations would be given adequate protection by the carriage and program exclusivity requirements of the Commission's rules, and will not be injured in those instances where declaratory rulings or waivers of those rules are requested.

4. We turn first to the educational facet of this matter. York does not lie within the Grade B contour of any Washington educational station. Columbia does not lie within the Grade B contour of the Wilmington educational station. With respect to the importation of out-of-State educational stations, and notwithstanding the Commission's consistent holdings that the wider dissemination of educational programing is in the public interest, we cannot find in the face of the stated opposition of Pennsylvania educational television broadcast authorities, without the benefit of a full evidentiary hearing, that importation of out-of-State educational television stations would be in the public interest where such importation would cause the disruption of the carefully conceived and implemented Pennsylvania State Plan for Educational Television. Waiver of the hearing provisions of § 74.1107 for importation of the distant Washington educational station by Susquehanna Broadcasting Co., and of the distant Wilmington educational station by H. C. Ostertag Cable TV Co. must therefore be denied.

5. But it appears that with respect to the other requests for waiver of the distant signal rule, other factors are pertinent. The critical consideration is of course what effect the grant of the waiver would have on the establishment and healthy maintenance of television broadcast operations in this market. In this respect, we focus particularly on potential independent UHF operations, since the existing operations are network in nature and therefore our carriage and nonduplication requirements afford substantial protection. See Second Report, paragraph 145. First, we note that in some of the central cities of the market, a plethora of signals is already available. Thus, in Harrisburg and some of its suburban areas, CATV systems already operate with the requested signals. It follows that with respect to proposed CATV systems in Derry Township, Silver Spring Township, Monroe Township, Upper Allen Township, Lower Allen Township, and Fairview Township, and in Mechanicsburg and Shiremanstown, all rural or suburban areas surrounding or close to Harrisburg, hearing would serve no useful purpose. In Lancaster, and in the surrounding area, including Lancaster, Manheim, Manor, Warwick, East Lampeter, West Lampeter, and West Hempfield Townships, the Philadelphia VHF stations and UHF Station (Channel 48) place a Grade B signal, and are required to be carried upon request; under our established policy, carriage of the other Philadelphia UHF stations (Channels 17 and 29) should also be permitted. See Memorandum Opinion and Order, FCC 67-34 (released Jan. 19, 1967), paragraph 33. In view of carriage of these signals and of the Grade B Baltimore signals, we believe that carriage of the one additional distant signal, WTTG (Channel 5, Washington) raises no significant issue under 74.1107 in the circumstances.[18] For similar reasons, waiver of the hearing requirements of the rule is warranted for the integrated system proposed in Ephrata, Adamstown, Denver, Akron, Lititz, and Manheim (i.e., Philadelphia network affiliated VHFs are required to be carried and in some of the communities the independent Philadelphia UHFs are required to be carried). The same situation obtains with respect to the proposed Lebanon and Columbia CATV systems. In Lebanon, the Philadelphia VHF signals are available as local or Grade B signals, so what is again involved is the promotion of the UHF independents by permitting their carriage. In Columbia, the Baltimore VHF stations and two Philadelphia VHF stations place a Grade B signal. We think that further discussion as to other systems is unnecessary. Essentially, this is an area where there is available a very considerable number of Grade B VHF signals; in the circumstances, carriage of competing UHF signals from the same source (Philadelphia or Baltimore) is called for, and carriage in some instances of the few additional distant signals such as WTTG is of no significant consequence to the 74.1107 issue. While the foregoing is the critical consideration, we would also note that there are, of course, benefits to public interest from the CATV operations, namely, improved reception of UHF and added diversity of programing, particularly of an independent nature, in the listed communities. These benefits are present to a varying degree in every 74.1107 situation, and therefore are not dispositive of the issue (see par. 139, Second Report). But we point out that this market is somewhat unusual in that it is largely dominated by a single Lancaster VHF network affiliated station—with the result that the eastern and western extremes of the CATV proposals are about 55 miles apart; the northern and southern extremes about 35 miles apart. Clearly, in these circumstances (a geographically diffused market, with hilly terrain), CATV can particularly make a significant contribution to improved reception of local UHF stations. In sum, we conclude, based on the foregoing analysis, that waiver is called for on the particular facts of this situation, except with respect to importation of distant educational signals.

6. Turning to requests by D and E Cable, Peoples Broadcasting, and H. C. Ostertag Cable, for declaratory ruling on or waiver of § 74.1103 of the Commission's rules, we cannot find that petitioners have made a sufficient showing which would persuade us to waive the rule. Of course, the provisions of § 74.1103 do apply to the systems as they are constituted after action is taken on their petitions to waive hearing requirements of § 74.1107 of the rules, but only when the systems are operating on a known number of channels. The number of channels which will be provided by the systems when operation is commenced is not known here, and we limit our advisory opinions to situations where the critical facts are explicitly stated without the possibility that subsequent events will alter them. Therefore, we must deny those requests for declaratory rulings on, or waiver of, § 74.1103 of the rules, without prejudice.[19]

7. In considering matters raised by West Shore's application for CAR service (BPCAR 32), the petition to deny filed therein by WGAL Television, Inc., and the subsequent request by West Shore for dismissal of the application without prejudice, we are of the view that West Shore's request for dismissal should be granted and WGAL's petition to deny be denied.

8. WGAL Television, Inc., has moved to consolidate hearing on the applications before us, and opposition thereto has been made. But because the issues are similar, and the proposals' cumulative effect must be ascertained, the motion of WGAL Television, Inc., will be granted and the oppositions thereto will be denied.

9. *Accordingly, it is ordered,* That the provisions of § 74.1107 of the rules are waived in order to permit the Ephrata, Adamstown, Akron, Denver, Lititz, Manheim, Lancaster, Manheim Township, Manor Township, Warwick Township, Lancaster Township, East Lampeter Township, West Lampeter Township, West Hempfield Township, Derry Township, Silver Spring Township, Monroe Township, Upper Allen Township, Lower

[18] As to the possible application of footnote 69, we note that there has been no request under 74.1109 for such application, and that in any event its application would appear inappropriate in circumstances such as this, where the market has considerable existing CATV activity (e.g., Harrisburg) and penetration by the potential "footnote 69" signals (e.g., the availability in Lancaster of Philadelphia VHF signals).

[19] In any event, attention is directed to § 74.1103(b) (1) and (2) of the rules.

Allen Township, Fairview Township, Mechanicsburg, Shiremanstown, and Lebanon CATV systems to carry distant signals as proposed, the York CATV system to carry distant signals as proposed except for the distant Washington, D.C., educational station, the Columbia CATV system to carry distant signals as proposed except for the distant Wilmington, Del. educational station; and that the application for CAR service (BPCAR 32) filed by West Shore TV Cable Co. is dismissed and the Petition to Deny filed therein by WGAL Television, Inc., is denied.

It is further ordered, This 29th day of March 1967, pursuant to sections 4(i), 303, 309(b) of the Communications Act and §§ 74.1107 and 74.1109 of the Commission's rules, that the petitions of Susquehanna Broadcasting Co., with respect to carriage of the distant signal of the Washington, D.C., educational station, and of H. C. Ostertag Cable TV Co. with respect to carriage of the distant signal of the Wilmington, Del., educational station, and that the petitions of D and E Cable TV, Inc., Peoples Broadcasting Co., and H. C. Ostertag Cable TV Co. insofar as they request waiver of or declaratory rulings on § 74.1103 of the Commission's rules are denied, and that with respect to the carriage of distant signals of Washington and Wilmington educational stations by Susquehanna Broadcasting Co. and H. C. Ostertag Cable TV Co. a consolidated hearing is ordered on the following issues:

1. To determine the impact of proposed CATV service carrying distant educational stations in the market upon existing, proposed, and potential educational television broadcast stations in the market.

2. To determine whether the CATV proposals are consistent with the public interest.

Susquehanna Broadcasting Co., D and E Cable TV, Inc., Peoples Broadcasting Co., H. C. Ostertag Cable TV Co., Newhouse Broadcasting Corp., Philadelphia Television Broadcasting Co., South Central Educational Broadcasting Council, WGAL Television, Inc., Westinghouse Broadcasting Co., The Hearst Corp., and WIBF Broadcasting Co., are made parties to this proceeding and, to participate, must comply with the applicable provisions of § 1.221 of the Commission's rules. The burden of proof is upon the petitioners. A time and place for the hearing will be specified in another order.

Released: March 31, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-3935; Filed, Apr. 10, 1967; 8:48 a.m.]

[1] Concurring and dissenting statement of Commissioner Bartley and dissenting statement of Commissioner Cox filed as part of original document; Commissioner Loevinger concurring in the order; Commissioner Johnson absent.

[Docket Nos. 17334, 17335; FCC 67M-558]

SUSQUEHANNA BROADCASTING CO. AND H. C. OSTERTAG CABLE TV CO.

Order Scheduling Hearing

In re petitions by Susquehanna Broadcasting Co., York, Pa., Docket No. 17334, File No. CATV 100-15; H. C. Ostertag Cable TV Co., Columbia, Pa., Docket No. 17335, File No. CATV 100-158; for authority pursuant to § 74.1107 to serve and operate CATV systems in the Harrisburg-Lancaster-Lebanon-York, Pa., television market (ARB, 29):

It is ordered, This 31st day of March 1967, that Millard F. French shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on May 22, 1967, at 10 a.m.; and that a prehearing conference shall be held on April 21, 1967, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall be held in the offices of the Commission, Washington, D.C.

Released: April 5, 1967.

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

[F.R. Doc. 67-3939; Filed, Apr. 10, 1967; 8:48 a.m.]

FEDERAL DEPOSIT INSURANCE CORPORATION

ARLINGTON TRUST CO.

Notice of Application of Exemption From Provisions of Securities Exchange Act of 1934

Pursuant to authority granted the Corporation under sections 12(h) and 12(i) of the Securities Exchange Act of 1934, as amended, notice is hereby given to all interested parties that the Arlington Trust Co., Lawrence, Mass., has applied to the Federal Deposit Insurance Corporation for exemption from certain provisions of that Act. The bank has asked the Corporation to exempt it, its officers, directors, and certain controlling persons from the requirements of sections 12, 13, 14, and 16 of the Act.

Notice is hereby given that interested persons will have opportunity to present their written views or comments on this application within 20 days following the date of publication of this notice in the FEDERAL REGISTER. Communications should be addressed to the Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

Dated this 4th day of April 1967.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary.

[F.R. Doc. 67-3905; Filed, Apr. 10, 1967; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP67-275]

K. R. AND T. GAS CO. AND CITIES SERVICE GAS CO.

Notice of Application

MARCH 31, 1967.

Take notice that on March 23, 1967, K. R. and T. Gas Co. (Applicant), Elmdale, Kans. 66850, filed in Docket No. CP67-275 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Cities Service Gas Co. (Respondent) to establish physical connection of its facilities with the facilities of Applicant and to sell and deliver to Applicant volumes of natural gas for resale in Elmdale, Kan., and environs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests that Respondent be ordered to establish physical connection in Chase County, Kans., of its transmission facilities with the extension facilities to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for distribution and resale through Applicant's existing distribution system in Elmdale, Kans., and environs.

The total estimated third year peak-day and annual requirements of Applicant are 125 Mcf and 15,000 Mcf, respectively.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 26, 1967.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-3906; Filed, Apr. 10, 1967; 8:46 a.m.]

[Docket No. CP65-87]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Petition To Amend

MARCH 31, 1967.

Take notice that on February 21, 1967, Panhandle Eastern Pipe Line Co. (Petitioner), 1 Chase Manhattan Plaza, New York, N.Y. 10005, filed in Docket No. CP65-87 a petition to amend the order issued by the Commission December 8, 1966, by authorizing Petitioner to deliver additional interruptible volumes of natural gas to Union Gas Company of Canada, Ltd. (Union), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Specifically, Petitioner seeks to remove the 50,000 Mcf per day limitation presently contained in paragraph 2(f) of the above-mentioned order so as to conform its export authorization to the similar modification adopted by the Canadian National Energy Board, on February 15,

1967, in the import authorization of Union. Petitioner states that in view of current conditions in Canada, as well as the certainty that Petitioner will have an excess of natural gas available for delivery on some days during the winter, particularly on warmer days and on weekends, Union has requested that the daily limitation be removed from the authorization.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 1, 1967.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-3907; Filed, Apr. 10, 1967; 8:46 a.m.]

[Docket No. CP67-280]

PENNSYLVANIA GAS CO.

Notice of Application

MARCH 31, 1967.

Take notice that on March 24, 1967, Pennsylvania Gas Co. (Applicant), 213 Second Avenue, Warren, Pa. 16365, filed in Docket No. CP67-280 an application pursuant to section 7 of the Natural Gas Act for permission and approval of the Commission to abandon certain natural gas facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks permission and approval to abandon approximately 17.4 miles of 8-inch transmission pipeline between Warren, Pa., and Jamestown, N.Y., that has been replaced by a new 12-inch pipeline.

Applicant also seeks authorization to construct and operate the following facilities on a replacement basis:

(1) Approximately 12.5 miles of 20-inch transmission pipeline in Warren County, Pa., replacing 31.6 miles of 8-inch and 12-inch pipelines now being operated at maximum capacity, and

(2) Three sections totaling approximately 1.8 miles of 12-inch transmission pipeline replacing 10-inch pipeline between Warren, Pa., and Jamestown, N.Y., required by new highway construction and extensive corrosion.

Applicant estimates the total cost of the proposed construction at approximately $1,091,685, said cost to be financed out of available company funds and in part through the issuance of promissory notes and/or stock to its parent company, National Fuel Gas Co.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before May 1, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-3908; Filed, Apr. 10, 1967; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

STATE BANK OF ALBANY

Order Approving Merger of Banks

In the matter of the application of State Bank of Albany for approval of merger with The Emerson National Bank of Warrensburg.

There has come before the Board of Governors, pursuant to the Bank Merger Act, as amended (12 U.S.C. 1828(c), Public Law 89-356), an application by State Bank of Albany, Albany, N.Y., a State member bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and The Emerson National Bank of Warrensburg, Warrensburg, N.Y., under the charter and title of State Bank of Albany. As an incident to the merger, the two offices of The Emerson National Bank of Warrensburg would become branches of the resulting bank. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed merger,

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that said merger shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order.

Dated at Washington, D.C., this 3d day of April 1967.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-3911; Filed, Apr. 10, 1967; 8:46 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York.

[2] Voting for this action: Vice Chairman Robertson, and Governors Shepardson, Mitchell, Daane, Maisel, and Brimmer. Absent and not voting: Chairman Martin.

SECURITIES AND EXCHANGE COMMISSION

[70-4473]

MICHIGAN CONSOLIDATED GAS CO. AND AMERICAN NATURAL GAS CO.

Notice of Proposed Issue and Sale of Bonds and Stock

APRIL 5, 1967.

Notice is hereby given that American Natural Gas Co. ("American Natural"), Suite 4950, 30 Rockefeller Plaza, New York, N.Y. 10020, a registered holding company, and its subsidiary company, Michigan Consolidated Gas Co. ("Michigan Consolidated"), 1 Woodward Avenue, Detroit, Mich. 48226, have filed a joint application-declaration with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9, 10, and 12(f) of the Act and Rules 43 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the joint application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Michigan Consolidated will issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $35 million principal amount of first mortgage bonds, _____ percent series, due 1992. The interest rate (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest (which will not be less than 100 percent nor more than 102¾ percent of the principal amount), will be determined by the competitive bidding. The bonds will be issued under a mortgage and deed of trust, dated as of March 1, 1944, between Michigan Consolidated and First National City Bank and Francis M. Pitt, as Trustees, as heretofore supplemented and as to be further supplemented by a 16th supplemental indenture to be dated as of May 15, 1967.

Michigan Consolidated also proposes to (a) amend its articles of incorporation so as to increase the number of its authorized shares of common stock, par value $14 per share, from 9,700,000 shares to 10,060,000 shares, and (b) issue and sell 360,000 shares of such common stock to American Natural for a cash consideration of $5,040,000, the aggregate par

value thereof, such cash being received by American Natural as a special dividend to be paid by Michigan Consolidated. The effect of this dividend and its reinvestment will be to convert a portion of Michigan Consolidated's retained earnings to common stock.

Michigan Consolidated will use the net proceeds from the issue and sale of the bonds and common stock to pay its short-term construction loan notes to banks, which are expected to be outstanding in the amount of $17 million, and to retire at maturity $16,500,000 of its 3⅞ percent sinking fund debentures, due July 1, 1967. The balance will be used to finance, in part, its 1967 construction expenditures estimated at $29,500,000. Additional funds which may be required for construction purposes will be obtained by Michigan Consolidated from the sale of additional securities, which will be the subject of future filings with this Commission, and from internal sources.

The fees and expenses to be paid by Michigan Consolidated in connection with the issue and sale of the bonds are estimated at $122,000, including counsel fees of $25,000, and accountant's fees of $6,000; and in connection with the issue and sale of the common stock are estimated at $9,000, including counsel fees of $1,000. The fee of counsel for the bond underwriters, estimated at $12,000, is to be paid by the successful bidders. A statement of the expenses of such counsel will be filed by amendment.

The Michigan Public Service Commission has jurisdiction over the proposed issue and sale of bonds and common stock by Michigan Consolidated, and a copy of that commission's order authorizing the same will be filed by amendment in this proceeding. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 5, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the joint applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the joint application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 67-3933; Filed, Apr. 10, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 6, 1967.

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. 40968—*Fertilizer to points in western trunkline territory and southern Missouri.* Filed by Western Trunk Line Committee, agent (No. A-2485), for interested rail carriers. Rates on ammonium nitrate fertilizer, dry fertilizer and dry fertilizer materials, in carloads, from Calgary, Fort Saskatchewan, and Medicine Hat, Alberta, Kimberley and Warfield, British Columbia, Brandon, Manitoba, and Wascana, Saskatchewan, Canada, to points in western trunkline territory and southern Missouri.

Grounds for relief—Market competition.

Tariffs—Revised pages to Canadian National Railways tariff ICC W. 766 and Canadian Pacific Railway Co. tariff ICC W. 1091.

FSA No. 40969—*Joint motor-rail rates—Southern Motor Carriers.* Filed by Southern Motor Carriers Rate Conference, agent (No. 164), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in southern territory, on the one hand, and points in middlewest and southwestern territories, on the other.

Grounds for relief—Motortruck competition.

Tariffs—Supplements 26 and 18 to Southern Motor Carriers Rate Conference, agent, tariffs MF-ICC 1392 and 1403, respectively.

By the Commission.

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

[F.R. Doc. 67-3942; Filed, Apr. 10, 1967; 8:49 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 6, 1967.

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. 40970—*Cement and related articles from Natchez, Miss.* Filed by Southwestern Freight Bureau, agent (No. B-8971), for interested rail carriers. Rates on cement, concrete, cement clinker, and pulverized blast furnace slag, in carloads, from Natchez, Miss., to points in Arkansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

Grounds for relief—Market competition.

Tariff—Supplement 83 to Southwestern Freight Bureau, agent, tariff ICC 4587.

By the Commission.

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

[F.R. Doc. 67-3943; Filed, Apr. 10, 1967; 8:49 a.m.]

[Notice 1503]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 6, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69509. By order of March 31, 1967, the Transfer Board approved the transfer to Metro Carrier Corp., Clifton, N.J., of the operating rights in certificate No. MC-36997 issued February 23, 1955, to Max Zall, doing business as B & Z Express Co., West New York, N.J., authorizing the transportation of: General commodities, with the usual exceptions, and rayon piece goods, between points in New York, New Jersey, and Pennsylvania. George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306, representative for transferee. Robert B. Pepper, 297 Academy Street, Jersey City, N.J. 07306, representative for transferor.

No. MC-FC-69512. By order of March 27, 1967, the Transfer Board approved the transfer to Reliable Delivery Service, Inc., Paramount, Calif., of the operating

rights in certificate No. MC–120053 (Sub-No. 2), issued April 10, 1961, and the Certificate of registration No. MC–120053 (Sub-No. 3), issued April 20, 1964, both to Hilliard Truck Line, Inc., Los Angeles, Calif., covering the transportation of general commodities, and certain specified commodities, between specified points in California. Donald Murchison, 211 South Beverly Drive, Beverly Hills, Calif. 90212, attorney for applicants.

No. MC–FC–69528. By order of March 31, 1967, the Transfer Board approved the transfer to Mid-State Express, Inc., Nashville, Tenn., of certificate of registration No. MC–97364 (Sub-No. 1), issued July 22, 1964, to Carl Boswell and Vida Langford Boswell, a partnership, doing business as Boswell Truck Line, Manchester, Tenn., evidencing a right to engage in transportation in interstate and foreign commerce pursuant to certificates of convenience and necessity Nos. 202–A and 202–B, dated May 27, 1949, issued by the Tennessee Public Service Commission. Walter Harwood, 515 Nashville Bank and Trust Building, Nashville, Tenn. 37201, attorney for applicants.

No. MC–FC–69531. By order of March 31, 1967, the Transfer Board approved the transfer to W. Herlihy and W. Duffy, a partnership, doing business as Duffy Dispatch, Springfield, Mass., of certificate of registration No. MC–57900 (Sub-No. 1), issued October 16, 1963, to Edward Dinerstein, Springfield, Mass., evidencing a right to engage in interstate or foreign transportation pursuant to Irregular Route Common Carrier Certificate No. 2828, dated May 12, 1960, issued by the Massachusetts Department of Public Utilities. William L. Mobley, 1694 Main Street, Springfield, Mass. 01103, attorney for applicants.

No. MC–FC–69555. By order of March 31, 1967, the Transfer Board approved the transfer to R. & M. Freight, Inc., Montclair, N.J., of the operating rights in certificate No. MC–85233, issued May 18, 1942, to Metro Carrier Corp., Clifton, N.J., authorizing the transportation of: General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over irregular routes, between New York, N.Y., on the one hand, and, on the other, Bayonne, Clifton, East Paterson, Edgewater, Haledon, Hawthorne, Jersey City, Passaic, Paterson, Totowa, and Weehawken, N.J. George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306, representative for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67–3944; Filed, Apr. 10, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—APRIL

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 April.

3 CFR

Page

PROCLAMATION:

3773 ... 5491
3774 ... 5539
3775 ... 5761
3776 ... 5763

EXECUTIVE ORDER:

11340 ... 5453
11341 ... 5765

5 CFR

213 ... 5455, 5671, 5768
511 ... 5455
534 ... 5455
550 ... 5768

7 CFR

1 ... 5458
701 ... 5619
718 ... 5493
722 ... 5671
751 ... 5767
862 ... 5458
907 ... 5461, 5729
908 ... 5461, 5619 5729
910 ... 5494, 5495, 5730
911 ... 5730
912 ... 5462, 5730
917 ... 5543
944 ... 5731
1421 ... 5462, 5767
1427 ... 5462, 5671
1430 ... 5767
1481 ... 5462

PROPOSED RULES:

68 ... 5555
301 ... 5807
319 ... 5807
320 ... 5555
908 ... 5628
958 ... 5629
989 ... 5690
992 ... 5514
993 ... 5556
1001 ... 5694
1002 ... 5694
1003 ... 5694
1004 ... 5694
1005 ... 5695
1008 ... 5695
1009 ... 5695
1011 ... 5695
1012 ... 5472
1013 ... 5472
1015 ... 5694
1016 ... 5694
1031 ... 5695
1032 ... 5695
1033 ... 5695
1034 ... 5695
1035 ... 5695
1036 ... 5695
1038 ... 5695
1039 ... 5695
1040 ... 5695
1041 ... 5695
1043 ... 5695
1044 ... 5695
1045 ... 5695
1046 ... 5695
1047 ... 5695
1048 ... 5695
1049 ... 5695

7 CFR—Continued

Page

PROPOSED RULES—Continued

1050 ... 5695
1051 ... 5695
1060 ... 5696
1062 ... 5695
1063 ... 5695
1064 ... 5695
1065 ... 5629, 5696
1066 ... 5629, 5696
1067 ... 5695
1068 ... 5695
1069 ... 5696
1070 ... 5695
1071 ... 5695
1073 ... 5638, 5696
1075 ... 5696
1076 ... 5638, 5696
1078 ... 5695
1079 ... 5639, 5695
1090 ... 5695
1094 ... 5694
1096 ... 5694
1097 ... 5695
1098 ... 5695
1099 ... 5695
1101 ... 5695
1102 ... 5695
1103 ... 5694
1104 ... 5695
1106 ... 5695
1108 ... 5695
1120 ... 5695
1125 ... 5696
1126 ... 5695
1127 ... 5695
1128 ... 5695, 5696
1129 ... 5695
1130 ... 5695
1131 ... 5696
1132 ... 5695
1133 ... 5640, 5696
1134 ... 5696
1136 ... 5696
1137 ... 5640, 5696
1138 ... 5695
1205 ... 5696

8 CFR

242 ... 5619
336 ... 5619

10 CFR

PROPOSED RULES:

50 ... 5562
115 ... 5562

12 CFR

640 ... 5543

13 CFR

106 ... 5672
121 ... 5495, 5620

PROPOSED RULES:

121 ... 5516

14 CFR

Ch. I ... 5769
11 ... 5770
39 ... 5463, 5464, 5496, 5543–5545, 5676, 5731, 5771.

14 CFR—Continued

Page

61 ... 5770
65 ... 5770
71 ... 5465, 5497, 5677, 5732, 5768, 5769
73 ... 5497, 5545, 5546
97 ... 5678
141 ... 5770
147 ... 5770
181 ... 5546
224 ... 5546
295 ... 5732

PROPOSED RULES:

23 ... 5698, 5791
37 ... 5788
39 ... 5808
61 ... 5740
71 ... 5472, 5473, 5706
75 ... 5473, 5706
91 ... 5559
243 ... 5562
288 ... 5564
399 ... 5564, 5642

15 CFR

201 ... 5547

16 CFR

13 ... 5734, 5735
15 ... 5620

17 CFR

PROPOSED RULES:

240 ... 5808
249 ... 5808

18 CFR

1 ... 5771

21 CFR

80 ... 5736
120 ... 5547, 5772
121 ... 5455, 5547, 5548, 5674, 5675, 5772, 5773
148w ... 5774
191 ... 5456

PROPOSED RULES:

3 ... 5560
131 ... 5560
191 ... 5561, 5562

22 CFR

41 ... 5620
126 ... 5456

23 CFR

255 ... 5498, 5499

24 CFR

200 ... 5681

25 CFR

41 ... 5621
221 ... 5621

PROPOSED RULES:

161 ... 5512

26 CFR

49 ... 5457

29 CFR

Page

4 5775
526 5775
601 5465
602 5465
603 5466
604 5466
606 5466
609 5466
610 5466
611 5466
612 5467
613 5467
614 5467
615 5467
616 5467
619 5467
657 5467
661 5468
670 5468
671 5468
672 5468
673 5468
675 5469
677 5469
678 5469
683 5469
687 5469
688 5470
690 5470
699 5470
720 5470
726 5505
800 5737

PROPOSED RULES:

526 5788

32 CFR

1 5505
2 5506
3 5506
6 5508
7 5508
10 5509

32 CFR—Continued

Page

12 5509
15 5510
18 5511
151 5682
888a 5778
1001 5781
1002 5782
1003 5782
1004 5786
1006 5787
1007 5787
1053 5787
1055 5787
1453 5457
1498 5457

32A CFR

NSA (Ch. XVIII):
INS–1 5621

33 CFR

207 5685

36 CFR

7 5771

38 CFR

21 5549

39 CFR

122 5686
127 5737
143 5686
148 5686
149 5686

41 CFR

1–3 5622
1–6 5622
8–1 5549
9–1 5737
101–32 5687

42 CFR

Page

54 5676

PROPOSED RULES:

81 5514

43 CFR

2240 5689

45 CFR

114 5549
801 5470, 5554

46 CFR

160 5499
510 5457
513 5503
540 5457

PROPOSED RULES:

512 5516

47 CFR

74 5554

PROPOSED RULES:

73 5564, 5566, 5642, 5740

49 CFR

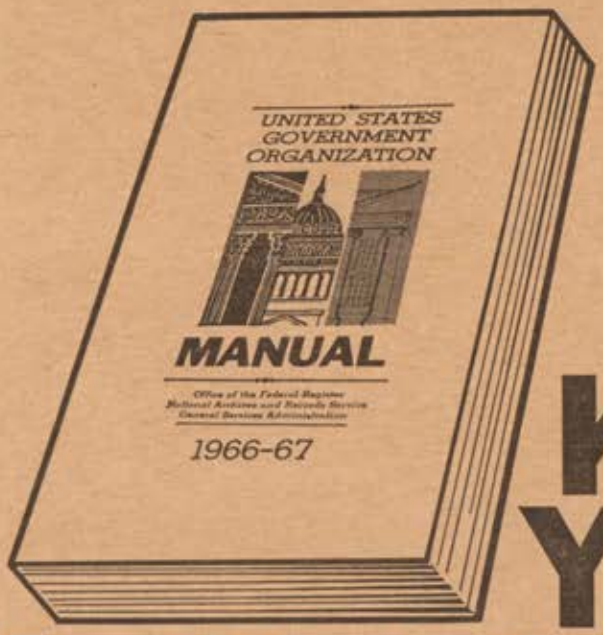
5606
1 5606, 5609
173 5624
235 5624
293 5625

50 CFR

33 5626, 5627, 5689, 5738, 5739
60 5787

PROPOSED RULES:

10 5628



KNOW YOUR GOVERNMENT

U.S. GOVERNMENT ORGANIZATION MANUAL

1966–67 EDITION

The United States Government Organization Manual is the official guide to the functions of the Federal Government

Presents **authoritative information about Government agencies (updated and republished annually).**

Describes **the creation and authority, organization, and functions of the agencies in the legislative, judicial, and executive branches.**

This handbook is an indispensable reference tool for teachers, librarians, scholars, lawyers, and businessmen who need current official information about the U.S. Government.

$2.00 per copy. Paperbound, with charts

Order from
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.