FEDERAL REGISTER

VOLUME 32 • NUMBER 179

Friday, September 15, 1967 • Washington, D.C.

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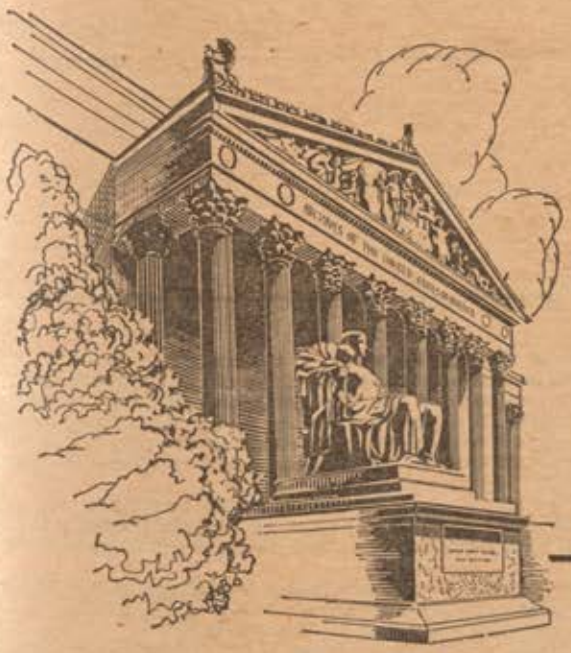

FEDERAL REGISTER

Area Code 202 Phone 962-8626

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.

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SUBCHAPTER B—FARM MARKETNG QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 3]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1966–67 and Subsequent Marketing Years

LEASE AND TRANSFER OF TOBACCO MARKETING QUOTAS AND ISSUANCE OF MARKETING CARDS

Basis and purpose. This amendment is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281, et seq.), and is made for the purpose of amending the Flue-Cured Tobacco Allotment and Marketing Quota Regulations for the 1966–67 and Subsequent Marketing Years. The amendment (1) provides that any producer of registered or certified flue-cured tobacco seed may devote flue-cured tobacco acreage to seed production outside the farm's allotment without affecting the farm's eligibility for price support or its status as a within quota farm when certain terms and conditions as set forth herein are met, and (2) in keeping with Public Law 90–52, removes the 5-acre limitation on the acreage which may be leased for 1968 or a subsequent year.

Tobacco farmers are engaged in the preparation for and the production of flue-cured tobacco for 1967 and marketings of the crop have begun. Also, farmers will soon be making plans to transfer allotments by lease to take effect with the 1968 crop. Hence, it is essential that this amendment be made effective at the earliest possible date. Accordingly, it is hereby found and determined that compliance with the notice, public procedure, and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest, and the amendment contained herein shall become effective upon date of filing the document with the Director, Office of the Federal Register.

1. Section 725.72(d) is amended to read as follows:

§ 725.72 **Lease and transfer of tobacco marketing quotas.**

* * * * *

(d) *Marketing quota basis for lease and transfer.* Marketing quota, pound for pound, shall be the basis for lease and transfer under the acreage-poundage program. The computed acreage for pounds leased and transferred to a lessee farm (the sum of its own allotment and the upward adjustment in acreage for lease and transfer) shall not exceed 50 per centum of the cropland acreage in the lessee farm. The maximum marketing quota that may be leased and transferred from a farm shall be limited to effective farm marketing quota for the lessor farm.

* * * * *

2. Section 725.87 is amended by adding a new paragraph (g) to read as follows:

§ 725.87 **Issuance of marketing cards.**

* * * * *

(g) *Marketing cards for producers of registered or certified flue-cured tobacco seed.* Any producer of registered or certified flue-cured tobacco seed may devote flue-cured tobacco acreage to seed production without such tobacco being charged against the farm's allotment, affecting the farm's eligibility for price support or affecting the farm's status in determining marketing penalties. A marketing card may be issued for a farm without regard to the tobacco acreage which is being produced for seed purposes if an agreement is signed by the farm operator, and the producer if different from the operator, which provides:

(1) For furnishing bond or other security to assure the destruction of all tobacco produced on the acreage designated for seed production and that no tobacco produced on such acreage will be harvested. The principal amount of bond or other security, to be furnished the county committee within 10 days after the date of the agreement, shall be computed by adding the result of computations under subdivision (i) and (ii) of this subparagraph as follows:

(i) For penalties under the marketing quota program, multiply the acreage designated for seed purposes by the farm yield for the farm times the full applicable rate of penalty contained in § 725.92, and

(ii) For liquidated damages under the price support program, multiply the acreage designated for seed purposes by the farm yield for the farm times 10 cents per pound.

Any such bond shall be executed by the producer(s) signing the agreement, as principal(s), and by a corporate surety licensed to do business in the State in which the farm is located and listed by the Treasurer of the United States as an acceptable surety on bonds to the United States. In lieu of a bond the county committee may accept a cashier's check, certified check, cash, or irrevocable letter of credit.

(2) For paying the cost of compliance visits to a farm by representatives of the county committee under Part 718 of this chapter in connection with the determination of the acreage designated for seed production. During the first compliance visit to the farm the acreage designated for seed production shall be determined and staked-off. Additional compliance visits will be made to the farm at 2-week intervals beginning with the compliance date for disposition of excess tobacco in the county, as provided in Part 718 of this chapter, and ending when the tobacco is destroyed. The producer(s) signing the agreement shall agree to timely notify the county office when the tobacco seed has been harvested so that arrangements can be made for a representative of the county committee to witness destruction of the tobacco leaves.

(3) For payment of marketing quota penalties and liquidated damages for seed acreage harvested for tobacco and on the tobacco not destroyed in the presence of a representative of the county committee: *Provided*, That the sum of such marketing quota penalties shall not exceed the total penalty due on total marketings above 110 percent of the effective farm marketing quota for the farm on which such tobacco was produced.

(4) That the planting of the tobacco acreage for seed production will not create history acreage for the purpose of establishing future farm allotments.

(5) That if the county committee determines that any of the terms and conditions of the agreement have been violated or any material misrepresentation in connection with the agreement has been made, any marketing card issued for the farm in recognition of the agreement shall be recalled and canceled, and a marketing card shall be issued to reflect all the tobacco produced on the farm and that the tobacco produced on the farm is not eligible for price support.

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on September 11, 1967.

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

[F.R. Doc. 67-10850; Filed, Sept. 14, 1967; 8:49 a.m.]

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

[Amdt. 2]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Container and Pack Requirements

On August 17, 1967, notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 1187), and on

September 7, 1967, notice of further proposed rule making was published in the FEDERAL REGISTER (32 F.R. 12802), that consideration was being given to an amendment revising the provisions of § 906.311 Container and Pack Regulations (29 F.R. 12869; 31 F.R. 11139), effective under the Marketing Agreement No. 141, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, the recommendation and information submitted by the Texas Valley Citrus Committee (established pursuant to the amended marketing agreement and order), and other available information, it is hereby found and determined that the amendment revising § 906.311, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the effective date of September 15, 1967, will coincide with the effective date for the first grade and size regulation of the season; (2) this amendment makes available for use by handlers one new container for the packing and handling of oranges and grapefruit; (3) adds an additional pack size for oranges; (4) the requirements are set forth for bag packs of oranges and grapefruit; and (5) no special preparation on the part of handlers is required to comply with this regulation which cannot be completed by the effective time hereof.

It is therefore ordered that paragraph (a) of § 906.311 Container and Pack Regulations (29 F.R. 12869; 31 F.R. 11139) be revised to read as follows:

§ 906.311 Container and pack regulations.

(a) *Order.* Except as otherwise provided herein or by, or pursuant to the provisions of Marketing Agreement No. 141, as amended, and this part, regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, no handler shall, on and after the date hereinafter specified, handle any fruit unless such fruit is in a container or containers meeting the following specifications, and the pack of such fruit conforms to all applicable requirements of this section:

(1) *Containers.* (i) Containers with inside dimensions of 24$\frac{5}{16}$ x 11$\frac{3}{8}$ x 11$\frac{3}{8}$ inches;

(ii) Containers with inside dimensions of 16¼ x 10¼ x 10¼ inches;

(iii) Containers with inside dimensions of 16½ x 10¾ x 9½ inches;

(iv) Containers with inside dimensions of 13¼ x 10½ x 7¼ inches;

(v) Bags having a capacity of 5, 8, or 20 pounds of fruit;

(vi) Containers with inside dimensions of 19¾ x 13 x 12½ inches, 20 x 13¼ x 9¾ inches, and 19¾ x 13½ x 13½ inches: *Provided*, That such containers may be used only for the shipment of fruit in bags as provided in subdivision (v) of this subparagraph; and

(vii) Such other types and sizes of containers as may be approved by the Texas Valley Citrus Committee for testing in connection with a research project conducted by or in cooperation with the said committee: *Provided*, That the handling of each lot of fruit in such test containers shall be subject to prior approval, and under the supervision, of the Texas Valley Citrus Committee.

(2) *Oranges.* Oranges, when in any box, bag, or carton, shall be of a size within the diameter limits specified for one of the following pack sizes and when packed in boxes or cartons shall be packed in accordance with the requirements of standard pack, except that not to exceed 10 percent, by count, of such oranges may be outside such diameter limits:

Pack sizes	Diameter limits in inches	
	Minimum	Maximum
100	3$\frac{7}{16}$	3$\frac{13}{16}$
125	3$\frac{9}{16}$	3$\frac{15}{16}$
163	3$\frac{11}{16}$	3$\frac{15}{16}$
200	3$\frac{11}{16}$	3$\frac{15}{16}$
252	2$\frac{7}{16}$	2$\frac{13}{16}$
288	2$\frac{5}{16}$	2$\frac{9}{16}$
324	2$\frac{5}{16}$	2$\frac{9}{16}$

(3) *Grapefruit.* Grapefruit, when in any box, bag, or carton, shall be of a size within the diameter limits specified for the various pack sizes for standard pack set forth in the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona) or be of a size within the diameter limits of the pack size specified in this paragraph and when in boxes or cartons shall be packed in accordance with the requirements of standard pack, except that not to exceed 10 percent, by count, of such grapefruit may be outside such diameter limits:

Pack size	Diameter limits in inches	
	Minimum	Maximum
46	4$\frac{5}{16}$	5

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

Dated, September 13, 1967, to become effective September 15, 1967.

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

[F.R. Doc. 67-10921; Filed, Sept. 14, 1967; 8:51 a.m.]

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

PART 981—ALMONDS GROWN IN CALIFORNIA

Expenses of the Almond Control Board and Rate of Assessment for the 1967–68 Crop Year

Notice was published in the August 26, 1967, issue of the FEDERAL REGISTER (32 F.R. 12444) regarding proposed expenses of the Almond Control Board for the 1967–68 crop year and rate of assessment for that crop year, pursuant to §§ 981.80 and 981.81 of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Control Board, and other available information, it is found that the expenses of the Control Board and rate of assessment for the crop year beginning July 1, 1967 shall be as follows:

§ 981.317 Expenses of the Control Board and rate of assessment for the 1967–68 crop year.

(a) *Expenses.* The expenses in the amount of $67,500 are reasonable and likely to be incurred by the Control Board during the crop year beginning July 1, 1967, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said crop year, payable by each handler in accordance with § 981.81, is fixed at 0.09 cent per pound of almonds (kernel weight basis).

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular crop year shall be applicable to all almonds received by handlers for their own accounts during such crop year; and (2) the current crop year began on July 1, 1967, and the rate of assessment herein fixed will automatically apply to all such almonds beginning with that date.

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

Dated: September 12, 1967.

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

[F.R. Doc. 67-10871; Filed, Sept. 14, 1967; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter III—Consumer and Marketing Service (Meat Inspection), Department of Agriculture

SUBCHAPTER A—MEAT INSPECTON REGULATIONS

SUBCHAPTER B—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

SUBCHAPTER D—HUMANE SLAUGHTER OF LIVESTOCK

SUBSTITUTION OF APPROPRIATE TERMINOLOGY AND DESIGNATIONS RESULTING FROM REORGANIZATION

Pursuant to the authority of the Meat Inspection Act, as amended, 21 U.S.C. 71-96; the Humane Slaughter Act, 7 U.S.C. 1901-1906; the Agricultural Marketing Act of 1946, 7 U.S.C. 1621-1627; and the Delegation of Authority contained at 31 F.R. 13249 et seq. (Oct. 13, 1966), provisions of Subchapters A, B, and D of Chapter III, Title 9, Code of Federal Regulations, are hereby amended in the following respects:

1. Section 301.1 (f), (g), (h), (j), and (bb) are revised to read:

§ 301.1 Definitions.

* * * * *

(f) *Program.* The Meat Inspection Program of the Consumer and Marketing Service.

(g) *Inspector.* An inspector of the program.

(h) *Program employees.* Inspectors and all other individuals in the program who are authorized by the Administrator to do any work or perform any duty in connection with meat inspection.

* * * * *

(j) *Circuit.* One or more official establishments included under an officer in charge.

* * * * *

(bb) *Officer in Charge.* The officer in charge of a circuit.

* * * * *

2. The following terminology substitutions are hereby made throughout Parts 301-329: The phrase "Federal Meat Inspection Program" instead of "Federal meat-inspection service"; the words "Program" instead of "Division"; "Circuit" instead of "Official Station"; "Program Employee" instead of "Division Employee"; "Program Employees" instead of "Division Employees"; "Administrator" instead of "Director," "Director of Division," "Director of the Division," "Director of the Meat Inspection Division," "director of division"; "Officer in Charge" instead of "Inspector in Charge" or "inspector in charge."

3. The following terminology substitution is hereby made throughout Part 340: The word "Administrator" instead of "Director" and "Director Meat Inspection Division"; and "Program" instead of "Division." Section 340.2 is amended by deleting paragraph (d).

4. Section 355.2 is amended by adding a new definition as follows:

§ 355.2 Terms defined.

* * * * *

(r) *Administrator.* The Administrator of the Consumer and Marketing Service or any officer or employee of the Department to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

5. The following terminology substitutions are hereby made throughout Part 355: The words "Program" instead of "Division"; "Officer in Charge"; "Circuit" instead of "Official Station," and "Administrator" instead of "Director of the Division," "director of the division," and "Director of Division."

6. Section 380.1(b) is revised to read:

§ 380.1 Definitions.

* * * * *

(b) *Program.* The Meat Inspection Program of the Consumer and Marketing Service of the U.S. Department of Agriculture.

* * * * *

7. The following terminology substitution is hereby made throughout Part 380: The word "Program" instead of "Division."

§ 381.1 [Amended]

8. The following terminology substitutions are hereby made in section 381.1 (b): The word "Administrator" instead of the phrase "Director of the Meat Inspection Division" and the word "Director"; the phrase "Consumer and Marketing Service" instead of the phrase "Agricultural Research Service."

Statement of Consideration. These amendments are of an organizational nature and are necessitated by the abolition of the Meat Inspection Division and the creation of the Livestock Slaughter Inspection, Processed Meat Inspection, and Technical Services Divisions and seven Meat Inspection District offices, as set forth in 31 F.R. 7916 (June 3, 1966), to carry out the Meat Inspection Program of the Consumer and Marketing Service. These amendments make no substantive changes in the regulations contained in 9 CFR Chapter III, Subchapters A, B, and D, and therefore, under 5 U.S.C. 553, it is found that public rule-making procedures with respect to them are unnecessary, and that there is good cause for making them effective in less than 30 days after publication thereof in the FEDERAL REGISTER.

The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER.

(21 U.S.C. 71-96; 7 U.S.C. 1621-1627, 1901-1906; 31 F.R. 7916, 13249 et seq.)

Done at Washington, D.C., this 11th day of September 1967.

R. K. SOMERS,
Deputy Administrator, Consumer Protection, Consumer and Marketing Service.

[F.R. Doc. 67-10851; Filed, Sept. 14, 1967; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 8381; Amdt. 39-482]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Model BAC 1-11 200 Series Airplanes

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), an airworthiness directive was adopted on September 1, 1967, and made effective immediately as to all known U.S. operators of British Aircraft Corp. Model BAC 1-11 200 Series airplanes because of reports of unwanted rudder actuation up to 4½ degrees as a result of yaw-damper control valve drift when electrically deenergized. The directive required the yaw damper to be operating at all times during flight or that it be deactivated, and that an appropriate placard be placed near the yaw-damper control switch.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of British Aircraft Corp. Model BAC 1-11 200 Series airplanes by individual telegrams dated September 1, 1967. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In view of the foregoing, § 39.13 of Part 39 is amended by adding the following airworthiness directive:

BRITISH AIRCRAFT. Applies to Model BAC 1-11 200 Series airplanes.

Compliance required within the next 10 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent unwanted rudder actuation as a result of yaw-damper control valve drift when electrically deenergized, comply with either paragraph (a) or (b).

(a) Install a placard as near as practicable to the yaw-damper control switch, reading as follows: "Yaw Damper must be operating at the time of takeoff and at all times during flight." In the event of failure of the yaw damper during flight, the flight may continue only to the next scheduled stop. Repair yaw damper or comply with paragraph

(b) before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repair can be performed.

(b) Positively deactivate the yaw damper in accordance with British Aircraft Corp. Instruction SS316 or an FAA-approved equivalent, and install placard to indicate that the yaw damper is deactivated.

This amendment becomes effective upon publication in the FEDERAL REGISTER for all persons except those to whom it was made effective immediately by telegram dated September 1, 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 September 7, 1967.

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

[F.R. Doc. 67-10829; Filed, Sept. 14, 1967; 8:47 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-SO-87]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Homestead, Fla., control zone.

The Homestead control zone is described in § 71.171 (32 F.R. 2071).

A portion of an extension to the control zone is predicated on the Homestead NDB.

Because of the decommissioning of the Homestead NDB, it is necessary to alter the control zone by substituting "OM" for "LOM" wherever it appears.

Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (32 F.R. 2071) the Homestead, Fla., control zone is amended as follows:

"* * * extending from the 5-mile radius zone to the LOM * * *" is deleted and "* * * extending from the 5-mile radius zone to the OM * * *" is substituted therefor.

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

Issued in East Point, Ga., on September 1, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-10830; Filed, Sept. 14, 1967; 8:47 a.m.]

[Airspace Docket No. 67-SW-47]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Palacios, Tex., control zone.

On July 11, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 10210) stating the Federal Aviation Administration proposed to alter the Palacios, Tex., control zone.

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., November 9, 1967, as herein set forth.

In § 71.171 (32 F.R. 2124) the Palacios, Tex., control zone is amended to read:

PALACIOS, TEX.

That airspace within a 5-mile radius of Palacios Municipal Airport (lat. 28°43'35" N., long. 96°15'15" W.) and within 2 miles each side of the 323° bearing from the Palacios DF station (lat. 28°43'22" N., long. 96°-15'07" W.) extending from the 5-mile radius zone to 8 miles northwest of the DF station.

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

Issued in Fort Worth, Tex., on September 6, 1967.

D. E. MCHAM,
Acting Director, Southwest Region.

[F.R. Doc. 67-10831; Filed, Sept. 14, 1967; 8:47 a.m.]

[Airspace Docket No. 67-SW-48]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Albuquerque, N. Mex., control zone.

On July 14, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 10,372) stating the Federal Aviation Administration proposed to alter the Albuquerque, N. Mex., control zone.

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., November 9, 1967, as herein set forth.

In § 71.171 (32 F.R. 2072) the Albuquerque, N. Mex., control zone is amended to read:

ALBUQUERQUE, N. MEX.

Within a 5-mile radius of Albuquerque Sunport Airport/Kirtland AFB (lat. 35°02'-42" N., long. 106°36'02" W.); within 2 miles each side of the extended centerline of Runway 35, extending from the 5-mile radius zone to 7 miles north of the north end of Runway 35; within 2 miles each side of the extended centerline of Runway 17, extending from the 5-mile radius zone to 5 miles south of the south end of Runway 17; and within 2 miles each side of the Albuquerque VORTAC 090° radial, extending from the 5-mile radius zone to the VORTAC.

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

Issued in Fort Worth, Tex., on September 6, 1967.

D. E. MCHAM,
Acting Director, Southwest Region.

[F.R. Doc. 67-10832; Filed, Sept. 14, 1967; 8:47 a.m.]

[Airspace Docket No. 67-EA-55]

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

Alteration of Control Zone and Transition Area

On page 10662 of the FEDERAL REGISTER for July 20, 1967, the Federal Aviation Administration published proposed regulations which would alter the Martinsburg, Pa., 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., November 9, 1967.

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

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

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Martinsburg, Pa., control zone by deleting in the description the coordinates, "40°17'50" N., 78°19'10" W." and substitute in lieu thereof the following, "40°17'45" N., 78°19'10" W."; following the phrase, "Blair County Airport, Martinsburg, Pa." add, "within 2 miles each side of the centerline of runway 2 extended from the 5-mile radius zone to 6.5 miles north of the end of the runway; and within 2 miles each side of the centerline of runway 20 extended from the 5-mile radius zone to 9 miles south of the end of the runway."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Martinsburg, Pa., transition area by deleting in the description the coordinates, "40°17'50" N., 78°19'10" W." and substitute in lieu thereof, "40°17'45" N., 78°19'10" W."; following the phrase, "Blair County Airport, Martinsburg, Pa." add, "within 2 miles each side of the centerline of runway 20 extended from the 7-mile radius area to 9 miles south of the end of the runway; and within 8 miles west and 5 miles east of the Altoona VOR 026° radial extending from the VOR to 12 miles north of the VOR."

[F.R. Doc. 67-10833; Filed, Sept. 14, 1967; 8:47 a.m.]

[Airspace Docket No. 67-EA-56]

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

Alteration of Control Zone and Transition Area

On pages 10662 and 10663 of the FEDERAL REGISTER for July 20, 1967, the Fed-

eral Aviation Administration published proposed regulations which would alter the Cleveland, Ohio (Burke-Lakefront Airport), control zone and Cleveland, Ohio, 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., November 9, 1967.

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

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

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Cleveland, Ohio (Burke-Lakefront Airport), control zone by deleting the description and inserting in lieu thereof the following:

CLEVELAND, OHIO (BURKE-LAKEFRONT AIRPORT)

Within a 4-mile radius of the center, 41°31'00" N., 81°41'00" W., of Burke-Lakefront Airport, Cleveland, Ohio, and within 2 miles each side of the Burke-Lakefront ILS localizer NE course extending from the 4-mile radius zone to the OM. This control zone shall be effective from 0700 to 2300 hours, local time, daily.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Cleveland, Ohio, transition area by deleting in the description of the 700-foot floor transition area "within a 3-mile radius of the Burke-Lakefront Airport, 41°31'00" N., 81°41'00" W.; within 2 miles each side of the Cleveland-Hopkins Runway 23-L-ILS localizer NE course, extending from the 8-mile radius area to the Burke-Lakefront 3-mile radius area" and, "extending from the Burke-Lakefront 3-mile radius area" and substitute in lieu thereof; "within a 6-mile radius of the center, 41°31'00" N., 81°-41'00" W., of Burke-Lakefront Airport, Cleveland, Ohio; within 2 miles each side of the Burke-Lakefront localizer NE course extending from the 6-mile radius area to the OM; within 8 miles NW and 5 miles SE of the Burke-Lakefront localizer NE course extending from the OM to 12 miles NE of the OM" and, "extending from the Burke-Lakefront 6-mile radius area", respectively. In the description of the 1200-foot floor transition area, following the phrase, "42°00'00" N., 81°18'00" W., to point of beginning" add, "excluding the portion within the Willoughby, Ohio, transition area."

[F.R. Doc. 67-10834; Filed, Sept. 14, 1967; 8:48 a.m.]

[Airspace Docket No. 67-WE-42]

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

Alteration of Control Zone and Transition Area

On page 11168 of the FEDERAL REGISTER dated August 1, 1967, there was published a notice of proposed rule making to amend Part 71 of the Federal Aviation Regulations by altering the control zone and transition area in the Hoquiam, Wash., terminal area. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed airspace actions.

No objections have been received and the proposed amendments are hereby adopted without change.

Effective date. These amendments shall be effective 0001 e.s.t., November 9, 1967.

Issued in Los Angeles, Calif., on September 6, 1967.

A. E. HORNING,
Acting Director, Western Region.

In § 71.171 (32 F.R. 2101) the Hoquiam, Wash., control zone is amended to read as follows:

HOQUIAM, WASH.

Within a 5-mile radius of Bowerman Field, Hoquiam, Wash. (latitude 46°58'15" N., longitude 123°56'05" W.), within 2 miles each side of the Hoquiam VORTAC 081° radial, extending from the 5-mile radius zone to the VORTAC, and within 2 miles each side of the Hoquiam VORTAC 080° radial, extending from the 5-mile radius zone to 20.5 miles east of the VORTAC.

In § 71.181 (32 F.R. 2199) the Hoquiam, Wash., transition area is amended to read as follows:

That airspace extending upward from 700 feet above the surface east of Bowerman Field, bounded on the north by a line 2 miles north of and parallel to the Hoquiam VORTAC 068° radial, on the south by a line 2 miles south of and parallel to the Hoquiam 080° radial, extending eastward between the arcs of 5- and 13-mile radius circles centered on Bowerman Field (latitude 46°58'15" N., longitude 123°56'05" W.); that airspace extending upward from 1,200 feet above the surface, within 8 miles north and 8 miles south of the Hoquiam VORTAC 069° and 249° radials, extending from 13 miles west to 15 miles east of the VORTAC.

[F.R. Doc. 67-10835; Filed, Sept. 14, 1967; 8:48 a.m.]

[Airspace Docket No. 67-AL-5]

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

Designation of Control Zone and Transition Area

On July 11, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 10211) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a control zone and transition area at Point Barrow, Alaska.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable. However, the Alaskan Air Command plans to change the existing Instrument Approach Procedure, AL-1502-ADF, effective October 23, 1967. The approach will then be made from the northeast. This will eliminate the need for the control zone extension to the southeast as proposed in the notice. However, it will be necessary to increase the width of the control zone extension to the northeast by slightly less than 2 miles. Since this is a minor change from the configuration proposed in the notice, in which the public is not particularly interested, the Administrator has determined that further notice and public procedure thereon is unnecessary and this change may be adopted in the rule.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., November 9, 1967, as hereinafter set forth.

1. In § 71.171 (32 F.R. 2071) the Point Barrow, Alaska, control zone is added as follows:

POINT BARROW, ALASKA

Within a 5-mile radius of the Point Barrow AFS Airport, Point Barrow, Alaska (lat. 71°20'18" N., long. 156°38'00" W.); within an 8-mile radius of the Point Barrow RBN (PBA), extending clockwise from a line 2 miles northwest of and parallel to the 028° bearing from the RBN to a line 2 miles southeast of and parallel to the 041° bearing from the RBN; within a 5-mile radius of the Wiley Post-Will Rogers Memorial Airport, Barrow, Alaska (lat. 71°17'05" N., long. 156°46'05" W.); within 2 miles each side of the 226° bearing form the Barrow Alaska RBN (BRW), extending from the 5-mile radius zone to 8 miles southwest of the RBN; and within 2 miles each side of the 266° bearing from the Barrow RBN (BRW), extending from the 5-mile radius zone to 8 miles west of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Alaska Airman's Guide and Chart Supplement.

2. In § 71.181 (32 F.R. 2148) the Point Barrow, Alaska, transition area is added as follows:

POINT BARROW, ALASKA

That airspace extending upward from 700 feet above the surface within a 17-mile radius of lat. 71°18'00" N., long. 156°43'00" W. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Alaska Airman's Guide and Chart Supplement.

(Secs. 307(a), 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510; Executive Order 10854; 24 F.R. 9565)

Issued in Washington, D.C., on September 8, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-10836; Filed, Sept. 14, 1967; 8:48 a.m.]

[Airspace Docket No. 67-EA-76]

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

Alteration of Federal Airways and Reporting Point

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to change the name Wilkes-Barre, Pa., VORTAC to Lake Henry, Pa.,

VORTAC. This action is taken to eliminate pilot confusion resulting from associating the location of the Wilkes-Barre VORTAC as being in the immediate vicinity of the Wilkes-Barre airport whereas the VORTAC is located some 13 miles northeast of the airport. This amendment will identify the VORTAC with a location name at its approximate geographical site.

Since this name change is editorial in nature and will not assign or reassign the use of navigable airspace, notice and public procedure hereon is unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 7, 1967, as hereinafter set forth.

1. Section 71.123 (32 F.R. 1086, 2009, 6390, 9157) is amended as follows:

a. In V–29, V–36, V–58, V–106, V–116, V–126, and V–153 whenever the name "Wilkes-Barre" appears the name "Lake Henry" is substituted therefor.

2. In § 71.203 (32 F.R. 2275) "Wilkes-Barre, Pa." is deleted and "Lake Henry, Pa." is substituted therefor.

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

Issued in Washington, D.C., on September 8, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67–10837; Filed, Sept. 14, 1967; 8:48 a.m.]

[Airspace Docket No. 67–SO–13]

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

Alteration of Federal Airways and Jet Routes Designation of Control Area

On August 23, 1967, F.R. Doc. No. 67–9913 published in the FEDERAL REGISTER (32 F.R. 12113) in part altered Federal airways affected by the relocation of the Albany, Ga., VOR, and will become effective October 12, 1967. V–243 east alternate was inadvertently omitted from consideration as an affected airway. A segment of V–243 east alternate 11 miles long must be rotated 3 degrees to coincide with the realignment of V–35. In addition, Crab INT, which is designated in part via the Tallahassee 192° radial, must be redesignated via the Tallahassee 187° radial. Such actions are taken herein.

Since these amendments are in the interest of safety and will impose no undue burden on any person, the Administrator has determined that notice and public procedure thereon are unnecessary and that they may be made effective immediately.

In consideration of the foregoing, effective immediately, F.R. Doc. No. 67–9913 (32 F.R. 12113) is amended as follows:

In Item 1, sub item f. is added as follows:

f. In V–243 "INT Vienna 328° and Macon, Ga., 205° radials," is deleted and "INT Vienna 328° and Macon, Ga., 208° radials," is substituted therefor.

Item 4 is added as follows:

4. Section 71.209 (32 F.R. 2285) is amended as follows:

In Crab INT "Tallahassee, Fla., 192° radials." is deleted and "Tallahassee, Fla., 187° radials." is substituted therefor.

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

Issued in Washington, D.C., on September 7, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67–10838; Filed, Sept. 14, 1967; 8:48 a.m.]

[Airspace Docket No. 67–WE–57]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of the Moses Lake, Wash., transition area.

The Ephrata VOR is being converted to a VORTAC and relocated to latitude 47°22'41" N., longitude 119°25'22" W. The facility is scheduled for commissioning on or about December 9, 1967. Relocation of the facility will require a 1-degree change in the approach radial for the AL–138–VOR–1 approach procedure. In addition, the approach procedure will be modified to incorporate a counterclockwise 10-mile DME arc transition from the Ephrata VORTAC 060° M (081° T) radial to the 022° M (043° T) radial, and will require a small amount of additional 1,200-foot transition area.

The additional 1,200-foot transition area is required to provide controlled airspace for aircraft executing the 10-mile DME arc transition at or above 1,500 feet above the surface.

Since these changes are minor in nature, notice and public procedure hereon are unnecessary.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 7, 1967, as hereinafter set forth:

In § 71.181 (32 F.R. 2225) the Moses Lake, Wash., transition area is amended to read as follows:

MOSES LAKE, WASH.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Grant County Airport (latitude 47°-12'35" N., longitude 119°18'50" W.), within 2 miles each side of the Ephrata VORTAC 156° radial extending from the 5-mile radius area to 4 miles southeast of the VORTAC, within 2 miles west and 2.5 miles east of the Moses Lake ILS localizer south course extending from the 5-mile radius area to 10.5 miles south of the Moses Lake RBN, within 7 miles southeast and 10 miles northwest of the Ephrata VORTAC 043° and 223° radials extending from 8 miles southwest to 14 miles northeast of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the Ephrata VORTAC 043° radial extending from the VORTAC to the arc of a 16-mile radius circle centered on the Ephrata VORTAC, within 5 miles southwest and 8 miles northeast of the Ephrata VORTAC 336° radial extending from the VORTAC to 12 miles northwest of the VORTAC, within 15 miles east and 10 miles west of the Moses Lake VOR 161° and 341° radials extending from 27 miles south to 14 miles north of the VOR, that airspace northeast of Moses Lake bounded on the northwest by a line 5 miles northwest of and parallel to the Ephrata VORTAC 066° radial, on the east by an arc of a 52-mile radius circle centered on Fairchild Air Force Base, Spokane, Wash. (latitude 47°36'55" N., longitude 117°39'20" W.), on the southeast by a line 5 miles southeast of and parallel to the Moses Lake VOR 067° radial, on the west by longitude 119°15'00" W., and that airspace west of Moses Lake bounded on the north by latitude 47°30'00" N., on the east by longitude 119°15'00" W., on the south by latitude 47°00'00" N., and on the west by an arc of a 39-mile radius circle centered on the Grant County Airport.

Issued in Los Angeles, Calif., on September 6, 1967.

A. E. HORNING,
Acting Director, Western Region.

[F.R. Doc. 67–10841; Filed, Sept. 14, 1967; 8:48 a.m.]

[Airspace Docket No. 67–WE–59]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of the Klamath Falls, Oreg., control zone.

The FAA is modifying the current AL–473–VOR–RWY–32 approach to Kingsley Field by changing the final approach radial from 151° M (170° T) to 152° M (171° T). This alteration will require an amendment to the description of the Klamath Falls control zone, and action is taken herein to reflect this change.

Since this change is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective 0001 e.s.t., November 9, 1967, Part 71 of the Federal Aviation Regulations is amended as hereinafter set forth:

In § 71.171 (32 F.R. 2108) the Klamath Falls, Oreg., control zone is amended to read as follows:

KLAMATH FALLS, OREG.

Within a 5-mile radius of Kingsley Field (latitude 42°09'29" N., longitude 121°43'57" W.), within 3 miles east and 2 miles west of the Klamath Falls VORTAC 171° radial extending from the 5-mile radius zone to 8 miles south of the VORTAC and within 2 miles each side of the Klamath Falls VORTAC 332° radial extending from the 5-mile radius zone to 11 miles northwest of the VORTAC.

Issued in Los Angeles, Calif., on September 5, 1967.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 67-10842; Filed, Sept. 14, 1967; 8:48 a.m.]

[Airspace Docket No. 67-SO-70]

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

Designation of Transition Area

On July 26, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 10937) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Asheboro, N.C., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.d.s.t., November 9, 1967, as hereinafter set forth.

In § 71.181 (32 F.R. 2148) the following transition area is added:

ASHEBORO, N.C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Asheboro Municipal Airport (lat. 35°39'18" N., long. 79°53'41" W.).

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

Issued in East Point, Ga., on September 1, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-10843; Filed, Sept. 14, 1967; 8:48 a.m.]

[Airspace Docket No. 67-WA-28]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to § 73.29 of the Federal Aviation Regulations is to change the controlling agency of the Jacksonville East, Fla., Restricted Area R-2903A, the Stevens Lake, Fla., Restricted Area R-2903B, and the Putnam, Fla., Restricted Area R-2903C from "Federal Aviation Administration, Jacksonville ARTC Center" to "Federal Aviation Administration, Jacksonville TRACON."

The area of air traffic control responsibility that is delegated to the Jacksonville TRACON will be expanded on November 1, 1967, to include the airspace within these restricted areas. Accordingly, action is taken herein to reflect this change.

Since this amendment is editorial in nature, notice and public procedure thereon is unnecessary.

In consideration of the foregoing, the following action is taken:

In the text of § 73.29 (32 F.R. 7014 and 32 F.R. 5769) R-2903A, R-2903B, and R-2903C "Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center" is deleted and "Controlling agency. Federal Aviation Administration, Jacksonville TRACON" is substituted therefor.

This amendment shall become effective on November 1, 1967.

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

Issued in Washington, D.C., on September 8, 1967.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 67-10839; Filed, Sept. 14, 1967; 8:48 a.m.]

[Airspace Docket No. 67-PC-2]

PART 73—SPECIAL USE AIRSPACE

Revocation of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to revoke the Dillingham, Hawaii, Restricted Area R-3102.

The Department of the Army has advised the Federal Aviation Administration that Restricted Area R-3102 is no longer required. Accordingly, action is taken herein to revoke this restricted area.

Since this amendment reduces the burden on the public, notice and public procedure hereon are unnecessary and the amendment may be made effective on less than 30 days notice.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 73.31 (32 F.R. 2308, 5769) Restricted Area R-3102, Dillingham, Hawaii, is revoked.

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

Issued in Washington, D.C., on September 8, 1967.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 67-10840; Filed, Sept. 14, 1967; 8:48 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8380; Amdt. 554]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

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

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

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

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
PROCEDURE CANCELED, EFFECTIVE 7 OCT. 1967.							
City, El Paso; State, Tex.; Airport name, International; Elev., 3950'; Fac. Class., H-SAB; Ident., ELP; Procedure No. 2, Amdt. 3; Eff. date, 27 Feb. 67; Sup. Amdt. No. 2 Dated, 11 Jan. 64							
Pike Int	Trout Int (final)	Direct	1500	T-dn%	300-1	300-1	*200-½
LAX LOM	Trout Int	Direct	2000	C-dn	600-1	600-1	600-1½
LAX VOR	Trout Int	Direct	2000	S-dn-7R/L	600-1	600-1	600-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn S side of crs, 248° Outbnd, 068° Inbnd, 2000' within 10 miles of Trout Int.
Minimum altitude over Trout Int on final approach crs, 1500'.
Crs and distance, Trout Int to Runway 7R-L, 068°—4.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.7 miles after crossing Trout Int, climb to 2000' on crs of 068° no farther E than Downey FM/NDB.
%Northbound (280° through 060°) IFR departures: Unless otherwise directed by ATC, published SID's must be used.
*RVR 2400' authorized Runways 25L/R and 7L/R.
MSA within 25 miles of facility: 045°-135°—4600'; 135°-225°—2500'; 225°-315°—4000'; 315°-045°—8200'.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., LMM; Ident., AX; Procedure No. NDB (ADF) Runway 7R/L, Amdt. 6; Eff. date, 7 Oct. 67; Sup. Amdt. No. ADF 2, Amdt. 5; Dated, 16 Oct. 65

LAX VOR	LOM	Direct	3000	T-dn%	300-1	300-1	*200-½
Downey FM/NDB	LOM (final)	Direct	2000	C-dn	600-1	600-1	600-1½
LGB VOR	Downey FM/NDB	Direct	3000	S-dn-25L/R	600-1	600-1	600-1
La Habra Int	Downey FM/NDB	Direct	3000	A-dn	800-2	800-2	800-2
Tower Int	LOM	Direct	3000				

Radar available.
Procedure turn S side E crs, 068° Outbnd, 248° Inbnd, 2400' within 10 miles of LOM.
Minimum altitude over facility on final approach crs, 2000'.
Crs and distance, facility to airport, 248°—5.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.4 miles after passing LOM, climb to 2000' on crs of 248° within 15 miles of LOM.
%Northbound (280° through 060°) IFR departures: Unless otherwise directed by ATC, published SID's must be used.
*RVR 2400' authorized Runways 25L/R and 7L/R.
MSA within 25 miles of facility: 045°-135°—4600'; 135°-225°—2500'; 225°-315°—4000'; 315°-045°—8200'.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., LOM; Ident., LA; Procedure No. NDB (ADF) Runway 25L/R, Amdt. 25; Eff. date, 7 Oct. 67; Sup. Amdt. No. ADF 1, Amdt. 24; Dated, 16 Oct. 65

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

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

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Rio Int	ELP VOR (final)*	Direct	5500	T-dn	300-1	300-1	200-½
Newman VOR	ELP VOR	Direct	5500	C-dn	400-1	500-1	500-1½
Giffen Int	ELP VOR (final)	Direct	5000	S-dn-26#	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn S side of crs, 077° Outbnd, 257° Inbnd, 6500' within 10 miles.
Minimum altitude over facility on final approach crs, 5000'.
Crs and distance, facility to airport, 257°—3.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing ELP VOR, turn left, climb to 5500' on R 150° within 20 miles.
#400-¾ authorized, except for 4-engine turbojet aircraft, with operative REIL.
*Maintain 7000' until 5 miles W of Rio Int. If Rio Int not received, maintain 8000' until over ELP VOR.
MSA within 25 miles of facility: 000°-090°—7800'; 090°-180°—6400'; 180°-360°—8200'.

City, El Paso; State, Tex.; Airport name, El Paso International; Elev., 3958'; Fac. Class., BVORTAC; Ident., ELP; Procedure No. VOR Runway 26, Amdt. 19; Eff. date 7 Oct. 67; Sup. Amdt. No. VOR 1, Amdt. 18; Dated, 25 Sept. 65

10-mile DME Fix, R 170°	10-mile DME Fix, R 251°	10-mile DME clockwise Arc.	2000	T-dn%	300-1	300-1	*200-½
				C-dn	600-1	600-1	600-1½
10-mile DME Fix, R 046°	10-mile DME Fix, R 292°	10-mile DME counterclockwise Arc.	4000	S-dn-7R	600-1	600-1	600-1
				A-dn	800-2	800-2	800-2
10-mile DME Fix, R 292°	10-mile DME Fix, R 251°	10-mile DME counterclockwise Arc.	2000	If aircraft equipped with operating dual VOR receivers or DME and Del Rey Int/3 DME received, following minimums apply:			
				S-dn-7R#	500-1	500-1	500-1
10-mile DME Fix, R 251°	Del Rey Int/3 DME (final)	Direct	950				

Radar available.
Procedure turn S side of crs, 251° Outbnd, 071° Inbnd, 2000' within 10 miles.
Minimum altitude over facility on final approach crs, 600'.
Crs and distance, facility to airport, 071°—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.6 mile after passing LAX VOR, climb to Firestone Int at 2000' via R 069°.
#500-½ (RVR 4000') authorized with operative REIL or HIRL, except for 4-engine turbojets.
%Northbound (280° through 090°) IFR departures: Unless otherwise directed by ATC, published SID's must be used.
*RVR 2400' authorized Runways 25L/R, 7L/R.
MSA within 25 miles of the facility: 000°-090°—7200'; 090°-180°—2500'; 180°-270°—2400'; 270°-360°—8200'.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., H-BVORTAC; Ident., LAX; Procedure No. VOR Runway 7R, Amdt. 3; Eff. date, 7 Oct. 67; Sup. Amdt. No. VOR-7R, Amdt. 2; Dated, 16 Oct. 65

10-mile DME Fix, R 170°	10-mile DME Fix, R 262°	10-mile DME clockwise Arc.	2000	T-dn%	300-1	300-1	*200-½
				C-dn	600-1	600-1	600-1½
10-mile DME Fix, R 046°	10-mile DME Fix, R 292°	10-mile DME counterclockwise Arc.	4000	S-dn-7L#	600-1	600-1	600-1
				A-dn	800-2	800-2	800-2
10-mile DME Fix, R 292°	10-mile DME Fix, R 262°	10-mile DME counterclockwise Arc.	2000	If aircraft equipped with operating dual VOR receivers or DME and Anchor Int/3 DME received, following minimums apply:			
				S-dn-7L#	500-1	500-1	500-1
10-mile DME Fix, R 262°	Anchor Int/3 DME Fix, R 262° (final)	Direct	950				

Radar available.
Procedure turn S side of crs, 262° Outbnd, 082° Inbnd, 1500' within 10 miles of Anchor Int/3 DME.
Minimum altitude over Anchor Int/3 DME on final approach crs, 950'.
Crs and distance, Anchor Int/3 DME to VOR, 082°—3 miles. Breakoff point to runway, 026°—1 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of LAX VOR, climb to Firestone Int at 2000' via R 069°.
#500-½ (RVR 4000') authorized with operative REIL or HIRL, except for 4-engine turbojets.
%Northbound (280° through 090°) IFR departures: Unless otherwise directed by ATC, published SID's must be used.
*RVR 2400' authorized Runways 25L/R, 7L/R.
MSA within 25 miles of the facility: 000°-090°—7200'; 090°-180°—2500'; 180°-270°—2400'; 270°-360°—8200'.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., H-BVORTAC; Ident., LAX; Procedure No. VOR Runway 7L, Amdt. 3; Eff. date, 7 Oct. 67; Sup. Amdt. No. VOR-7L, Amdt. 2; Dated, 16 Oct. 65

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Long Beach VOR	Canal Int/13.6 DME	Direct	3000	T-dn%	300-1	300-1	*200-½
Downey FM/NDB	Canal Int/13.6 DME	Direct	3000	C-dn	500-1	600-1	600-1½
LAX VOR	Speedway Int/8.3 DME	Direct	2400	S-dn-25R	500-1	500-1	500-1
Canal Int/13.6 DME	Speedway Int/8.3 DME (final)	Direct	2000	A-dn	800-2	800-2	800-2
15-mile DME Fix, R 323°	15-mile DME Fix, R 042°	15-mile DME clockwise Arc.	3500	If aircraft equipped with operating dual VOR receivers or DME and Holly Int/5 received, the following minimums apply:			
15-mile DME Fix, R 042°	15-mile DME Fix, R 066°	15-mile DME clockwise Arc.	2000				
15-mile DME Fix, R 123°	15-mile DME Fix, R 066°	15-mile DME counterclockwise Arc.	2000	S-dn-25R#	400-1	400-1	400-1

Radar available.
Procedure turn S side of crs, 066° Outbnd, 246° Inbnd, 2400' within 10 miles of Speedway Int/8.3 DME.
Minimum altitude over Speedway Int/8.3 miles on final approach crs, 2000', Holly Int/5 DME—626'.
Crs and distance, Speedway Int/8.3 miles to airport, 246°—5.8 miles; Holly Int/5 to airport, 246°—2.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.8 miles after passing Speedway Int/8.3 miles, climb to 2000', direct to VORTAC then out R 246° within 15 miles.
#400-¾ (RVR 4000') authorized with operative HIRL, except for 4-engine turbojets. 400-½ (RVR 2400') authorized with operative AL's, except for 4-engine turbojets.
%Northbound (280° through 060°) IFR departures: Unless otherwise directed by ATC, published SID's must be used.
*RVR 2400' authorized Runways 25L/R, 7L/R.
MSA within 25 miles of facility: 000°-090°—7200'; 090°-180°—2500'; 180°-270°—2400'; 270°-360°—5200'.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., H-BVORTAC; Ident., LAX; Procedure No. VOR Runway 25R, Amdt. 4; Eff. date, 7 Oct. 67; Sup. Amdt. No. VOR-25R, Amdt. 3; Dated, 16 Oct. 65

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Long Beach VOR	Firestone Int/12 DME	Direct	3000	T-dn%	300-1	300-1	*200-½
Santa Ana VOR	Firestone Int/12 DME	Direct	3000	C-dn	500-1	600-1	600-1½
Firestone Int/12 DME	Freeway Int/7.5 (final)	Direct	2000	S-dn-25L	500-1	500-1	500-1
Downey FM/NDB	Freeway Int/7.5 (final)	Direct	2000	A-dn	800-2	800-2	800-2
LAX VOR	Freeway Int/7.5 (final)	Direct	2400	If aircraft equipped with operating dual VOR receivers or DME and Noel Int/4.6 received, the following minimums apply:			
15-mile DME Fix, R 323°	15-mile DME Fix, R 042°	15-mile DME clockwise Arc.	3500				
15-mile DME Fix, R 042°	15-mile DME Fix, R 069°	15-mile DME clockwise Arc.	2000				
15-mile DME Fix, R 123°	15-mile DME Fix, R 069°	15-mile DME counterclockwise Arc.	2000	S-dn-25L#	400-1	400-1	400-1

Radar available.
Procedure turn S side of crs, 069° Outbnd, 249° Inbnd, 2400' within 10 miles of Freeway Int/7.5.
Minimum altitude over Freeway Int/7.5 DME on final approach crs, 2000'; over Noel Int/4.6 DME, 626'.
Crs and distance, Freeway Int/7.5 DME to airport, 249°—5 miles; Noel Int/4.6 DME to airport, 249°—2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5 miles after passing Freeway Int/7.5 DME, climb to 2000' direct to VORTAC, then out R 246° within 15 miles.
#400-¾ (RVR 4000') authorized with operative HIRL, except for 4-engine turbojets. 400-½ (RVR 2400') authorized with operative AL's, except for 4-engine turbojets.
%Northbound (280° through 060°) IFR departures: Unless otherwise directed by ATC, published SID's must be used.
*RVR 2400' authorized Runways 25L/R, 7L/R.
MSA within 25 miles of facility: 000°-090°—7200'; 090°-180°—2500'; 180°-270°—2400'; 270°-360°—5200'.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., H-BVORTAC; Ident., LAX; Procedure No. VOR Runway 25L, Amdt. 5; Eff. date, 7 Oct. 67; Sup. Amdt. No. VOR-25L, Amdt. 4; Dated, 16 Oct. 65

3. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	

PROCEDURE CANCELED, EFFECTIVE 7 OCT. 1967.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., H-BVORTAC; Ident., LAX; Procedure No. VOR/DME No. 1, Amdt. 1; Eff. date, 16 Oct. 65; Sup. Amdt. No. Orig.; Dated, 2 Nov. 63

PROCEDURE CANCELED, EFFECTIVE 7 OCT. 1967.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., H-BVORTAC; Ident., LAX; Procedure No. VOR/DME No. 2, Amdt. 1; Eff. date, 16 Oct. 65; Sup. Amdt. No. Orig.; Dated, 2 Nov. 63

4. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Pike Int	Trout Int (final)	Direct	1500	T-dn/%	300-1	300-1	*200-½
Los Angeles LOM	Trout Int	Direct	2000	C-dn	500-1	600-1	600-1½
Los Angeles VOR	Trout Int	Direct	2000	S-dn-7R/L#	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn S side of W crs, 248° Outbnd, 068° Inbnd, 2000' within 10 miles of Trout Int.
Minimum altitude over Trout Int on final approach crs, 1500'.
Crs and distance, Trout Int to airport, 068°—4.7 miles.
No glide slope.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.7 miles after crossing Trout Int, climb to 2000' on E crs, LAX ILS localizer no further E than Downey FM/NDB/Int.
/Northbound (280° through 060°) IFR departures: Unless otherwise directed by ATC, published SID's must be used.
#400-½ (RVR 4000') authorized with operative REIL or HIRL, except for 4-engine turbojets.
*RVR 2400' authorized Runways 25L/R, 7L/R.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., ILS; Ident., I-LAX; Procedure No. LOC (BC) Runway 7R/L, Amdt. 4; Eff. date, 7 Oct. 67; Sup. Amdt. No. ILS-7R/L, Amdt. 3; Dated, 16 Oct. 65

Walnut Int	Bassett Int	Direct	3500	T-dn/%	300-1	300-1	*200-½
Bassett Int	Downey FM Int	Direct	3000	C-dn	500-1	600-1	600-1½
LAX VOR	LOM	Direct	3000	S-dn-25L*	200-½	200-½	200-½
La Habra Int	Downey FM/NDB	Direct	3000	A-dn	600-2	600-2	600-2
LGB VOR	Downey FM/NDB	Direct	3000				
Tower Int	LOM	Direct	4000				
Downey FM/NDB	LOM (final)	Direct	2000				
Downey Int	LOM (final)	Direct	2000				

Radar available.
Procedure turn S side of crs, 068° Outbnd, 248° Inbnd, 3000' within 10 miles of LOM.
Minimum altitude at glide slope interception, Inbnd, 2000'. (Aircraft will maintain 3,000' until intercepting glide slope unless otherwise advised by ATC.)
Altitude of glide slope and distance to approach end of runway at LOM, 1886'—5.4 miles; at LMM, 324'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2000' on W crs, LAX ILS within 15 miles of LOM.
NOTES: (1) If glide slope not received, minimums shall be 500-¾ with operative HIRL. 500-½ (RVR 2400') authorized with operative AL's, except for 4-engine turbojets.
(2) During simultaneous surveillance radar helicopter approaches to Runway 24, right turns from ILS crs not authorized.
/Northbound (280° through 060°) IFR departures: Unless otherwise directed by ATC, published SID's must be used.
#RVR 2400' authorized Runways 25L/R and 7L/R.
*RVR 2400'. Descent below 320' not authorized unless approach lights are visible.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., ILS; Ident., I-LAX; Procedure No. ILS Runway 25L, Amdt. 29; Eff. date, 7 Oct. 67; Sup. Amdt. No. ILS-25L, Amdt. 28; Dated, 16 Oct. 65

5. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	

PROCEDURE CANCELED, EFFECTIVE 7 OCT. 1967.

City, Martinsburg; State, W. Va.; Airport name, Martinsburg Municipal; Elev., 556'; Fac. Class., and Ident., MRB Air Force Radar; Procedure No. 1, Amdt. Orig.; Eff. date, 8 Feb. 64

These procedures shall become effective on the dates specified therein.

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

Issued in Washington, D.C., on August 31, 1967.

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

[F.R. Doc. 67-10504; Filed, Sept. 14, 1967; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8724]

PART 13—PROHIBITED TRADE PRACTICES

Michael J. and Ida Miller and Tracer Reserve Fund

Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1475 *Location;* § 13.1490 *Nature.* Subpart—Securing information by subterfuge: § 13.2168 *Securing information by subterfuge.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Michael J. Miller et al., doing business as Tracer Reserve Fund, St. Louis, Mo., Docket 8724, Aug. 21, 1967]

In the Matter of Michael J. Miller and Ida Miller, His Wife, Individuals Trading and Doing Business as Tracer Reserve Fund

Order requiring a St. Louis, Mo., operator of a debt collection business and his wife to cease misrepresenting the purpose of respondents' business, that any money or thing of value is being held for delinquent debtors, using any form which does not reveal true intent of asking for information, and misrepresenting that respondents maintain a Chicago office.

The order to cease and desist is as follows:

It is ordered, That respondents Michael J. Miller and Ida Miller, individuals trading and doing business as Tracer Reserve Fund, or under any other name or names, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the business of obtaining information concerning delinquent debtors, or the offering for sale, sale or distribution of forms or other materials, for use in obtaining information concerning delinquent debtors, or in the collection of, or attempting to collect accounts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the name "Tracer Reserve Fund" or any other name of similar import to designate, describe or refer to respondents' business, or otherwise misrepresenting the purpose for which information is sought.

2. Representing, directly or by implication that money or any other thing of value has been deposited with respondents for persons from whom information is sought, unless or until the money or other thing of value has in fact been so deposited, and then only when the exact sum of money or the exact nature of the other thing of value, is clearly and expressly disclosed and described.

3. Using, or placing in the hands of others for use, any form, questionnaire, or other material printed or written, which does not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning alleged delinquent debtors.

4. Representing, directly or by implication, that respondents maintain business offices in Chicago, Ill., or in any other city other than where business offices of respondents are actually maintained.

By "Final Order" further order requiring report of compliance is as follows:

It is further ordered, That respondents, Michael J. Miller and Ida Miller, individuals trading and doing business as Tracer Reserve Fund, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

Issued: August 21, 1967.

By the Commission.

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

[F.R. Doc. 67-10853; Filed, Sept. 14, 1967; 8:49 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

Trifluralin

A petition (PP 7F0555) was filed with the Food and Drug Administration by the Elanco Products Co., a division of Eli Lilly & Co., 740 South Alabama Street, Indianapolis, Ind. 46209, proposing the establishment of tolerances for residues of the herbicide trifluralin in or on the raw agricultural commodities carrots at 1 part per million and cantaloups and cucumbers at 0.05 part per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2) and delegated by him to the Commissioner (21 CFR 2.120), § 120.207 is revised to read as follows to establish the subject tolerances:

§ 120.207 Trifluralin; tolerances for residues.

Tolerances for residues of the herbicide trifluralin (α,α,α-trifluoro-2,6-dinitro-*N*,*N*-dipropyl-*p*-toluidine) in or on raw agricultural commodities are established as follows:

1 part per million in or on carrots (with or without tops).

0.05 part per million in or on cantaloups, cucumbers, potatoes, sugar beets.

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 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. 403(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: September 6, 1967.

J. K. KIRK, *Associate Commissioner for Compliance.*

[F.R. Doc. 67-10865; Filed, Sept. 14, 1967; 8:50 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

ST. JOHNSWORT

St. Johnswort was included in a notice published in the FEDERAL REGISTER of June 9, 1964 (29 F.R. 7427), proposing a food additive regulation prescribing the safe use of certain natural flavoring substances and adjuvants. Comments received in response to the proposal raised a question of potential toxicity of St. Johnswort because of the naturally occurring component hypericin, a photosensitizer even from a single high dose. It was concluded that the available safety data on St. Johnswort were inadequate; consequently, it was omitted from the order published January 30, 1965 (30 F.R. 992), which established the regulation (21 CFR 121.1163) proposed as stated above.

Subsequently, notice was given in the FEDERAL REGISTER of December 18, 1965 (30 F.R. 15674), that a petition (FAP 6A1903) had been jointly filed by: International Vermouth Institute, Inc., 10 East 40th Street, New York, N.Y. 10016;

Federazione Italiana Industrie, Vini E Liquori, c/o Buchman and Buchman, 10 East 40th Street, New York, N.Y. 10016; and Wine Institute, National Press Building, Washington, D.C. 20004, proposing an amendment to § 121.1163 to provide for the safe use of St. Johnswort as a flavoring agent in alcoholic beverages. Data in the petition established that hypericin can be removed from alcohol infusions of St. Johnswort by distillation processing so that an hypericin-free distillate is produced. Thus, the safety question of hypericin in St. Johnswort is not germane to a consideration of the flavor when it is prepared in the distillate form. The Commissioner of Food and Drugs, therefore, concludes that the food additive regulations should be amended to provide for the safe use of St. Johnswort distillate as a flavoring agent in alcoholic beverages.

Accordingly, 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), § 121.1163 (b) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.1163 Natural flavoring substances and natural substances used in conjunction with flavors.

* * * * *

(b) * * *

Common name	Scientific name	Limitations
* * *	* * *	* * *
St. Johnswort leaves, flowers, and exudis.	*Hypericum perforatum* L.	Hypericin-free alcohol distillate form only; in alcoholic beverages only.
* * *	* * *	* * *

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: September 6, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-10866; Filed, Sept. 14, 1967; 8:50 a.m.]

SUBCHAPTER C—DRUGS

PART 146b—CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS

Streptomycin- (Dihydrostreptomycin-) Polymyxin Tablets

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), § 146b.131(c) is revised to read as follows to provide for extensions of the maximum expiration date for the subject antibiotic drug:

§ 146b.131 Streptomycin-polymyxin tablets; dihydrostreptomycin-polymyxin tablets.

* * * * *

(c) It shall be labeled in accordance with the requirements of § 148.3 of this chapter. Its expiration date is 12 months.

* * * * *

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since the change provided for by this amendment cannot be applied to any specific product unless its manufacturer has supplied adequate data regarding that article.

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

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

Dated: September 7, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-10867; Filed, Sept. 14, 1967; 8:50 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 67-1020]

PART 0—COMMISSION ORGANIZATION

Title Change of the Office of Reports and Information

1. The title of the "Office of Reports and Information" having been changed to the "Office of Information," it is appropriate that Part 0 of the rules and regulations be amended to reflect that fact.

2. Because this amendment relates to internal agency organization, the prior notice, procedural, and effective date provisions of the Administrative Procedure Act do not apply. Authority for this amendment is contained in Sections 4(i), 5(b), and 303(r) of the Communications Act of 1934, as amended.

3. In view of the foregoing *It is ordered*, Effective September 15, 1967, that Part 0 of the rules and regulations is amended as set forth below.

Adopted: September 6, 1967.

Released: September 12, 1967.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

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

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. The undesignated center heading preceding § 0.61 and § 0.61 are amended to read as follows:

OFFICE OF INFORMATION

§ 0.61 Functions of the Office.

The Office of Information is responsible for releasing public announcements of the Commission; is the central depository of this material for reference and call; prepares certain informational publications and material, including annual reports; provides an internal information service for the Commissioners and staff; and is the contact point for the press, industry and public in the matter of general information relating to the Commission and its activities.

§§ 0.5, 0.423, 0.443, 0.455 [Amended]

2. The staff unit, Office of Reports and Information, is redesignated, Office of Information, where it appears in §§ 0.5(a)(12) and (b)(6), 0.423(a), 0.443, and 0.455(g).

[F.R. Doc. 67-10863; Filed, Sept. 14, 1967; 8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER I—MILITARY PERSONNEL

PART 882—DECORATIONS AND AWARDS

PART 888—ENLISTMENT IN THE REGULAR AIR FORCE

Miscellaneous Amendments

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

A new Subpart L is added to Part 882 as follows:

Subpart L—Organizational Emblems

Sec.
882.150 Policy on use of emblems.
882.151 Types of emblems.
882.152 Control of emblems.

AUTHORITY: The provisions of this Subpart L issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: AFR 900-3, Nov. 1, 1966.

Subpart L—Organizational Emblems

§ 882.150 Policy on use of emblems.

The Air Force encourages the use of emblems as a means of fostering unit pride and morale.

§ 882.151 Types of emblems.

For the purpose of this part, an emblem is a symbolic design portraying the distinctive history or general function of a unit. Emblems are of two types:

(a) Those for use by flag bearing units (group level and above).

(b) Those for use by squadrons and comparable units.

§ 882.152 Control of emblems.

(a) Sources outside the Air Force must obtain permission from the unit concerned and approval of the major command headquarters before reproducing or using a unit emblem. If the design is covered by a copyright, permission from the artist or agency granting the original copyright release also is required.

(b) Upon request from a nongovernmental agency for use of an approved emblem (such as by hobbyist, model aircraft kit manufacturers, for an advertisement, etc.), the major command will judge whether such use serves the best interests of the Air Force.

(c) Approved emblems will not be exploited for commercial purposes.

Part 888 is amended as follows:

§ 888.4 [Amended]

1. In § 888.4(a), the table is amended by changing the number "46" in the third column opposite "Male prior service" to read "36."

2. In § 888.5, columns (EE) and (MM) of the table are revised; in § 888.6, footnote 2 is revised; and §§ 888.8 and 888.11 are revised to read as follows:

§ 888.5 Applicants ineligible to enlist.

* * * * *

Any of the conditions indicated by an "X" is disqualifying for enlistment if applicant is—	Rule			
	1	2	3	4
* * * * *				
(EE) Separated with 10 years active service for retirement			X	X
* * * * *				
(MM) Not qualified in primary AFSC (as indicated on DD Form 214 or Reserve Records) on the Prior Service Skills List in the skill level required unless eligible to enlist for formal training			X	X

* * * * *

§ 888.6 Place of enlistment and initial assignment.

* * * * *

[2] Do not request approval for prior service enlistments unless vacancy exists.

* * * * *

§ 888.8 Grade determination.

Nonprior service personnel will use the first table, and prior service enlistees, except when specified otherwise in §§ 888.12 and 888.13, will use the second table as follows:

NONPRIOR SERVICE ENLISTEES

If applicant—	*Then grade authorized is—*
Was credited with over 90 days active duty service and last separated in pay grade E-2 or higher.	E-2.
Presents certificate of proficiency, letter from CAP-USAF Ellington AFB, Tex., or a letter from CAP unit commander showing successful completion of the CAP Training Program.	E-2 (see note).
Has completed 2 or more years of college AFROTC and possesses a letter of recommendation from the Professor of Aerospace Studies (PAS) or has satisfactorily completed the entire high school AFROTC program.	E-2 (see note).
Is a Service Academy ex-cadet with over 90 days service	E-2 (see note).
None of the above	E-1.

NOTE: Documents presented after enlistment is completed may not be used as a basis for changing the authorized enlistment grade.

PRIOR SERVICE ENLISTEES

If applicant enlists prior to—	*Then enlistment grade is (see note)—*
2d anniversary of DOS	Grade held when last separated.
180 days after 2d anniversary of DOS	One grade lower than at separation.
3d anniversary of DOS	Two grades lower than at separation.
4th anniversary of DOS	Three grades lower than at separation.

NOTE: Enlistment grade may be no higher than E-7 or lower than E-2.

§ 888.11 Prior service program.

(a) Enlistment of prior service personnel in the Air Force is extremely selective because of limited yearly quotas. Applicants for this program are required to meet all standards prescribed in this part.

(b) The DD Form 214, "Armed Forces of the United States Report of Transfer or Discharge," issued for the applicant's last period of service is the governing document used to determine applicant's eligibility.

(c) Criteria for enlisting for assignment in a required skill:

(1) The AFSC of the applicant shown in the specialty number and title block on his last DD Form 214 must be on the required skills list or be convertible to a required AFSC from the conversion list.

(2) Enlistment grade is as authorized in accordance with the second table in § 888.8 but may not be higher than E-7. Applicants who are authorized grades E-6 and E-7 may not enlist for vacancies below the 7-skill level; if authorized a grade lower than E-5, an applicant may not enlist for a 7-skill level vacancy.

(d) An applicant may enlist for formal school training provided he:

(1) Is a former member of the Air Force with an AFSC not on the required skills list, or a former member of other Armed Forces with a job skill that doesn't convert to an AFSC on the required skills list.

(2) Meets all prerequisites for Airman Basic Resident (ABR) course per AFM 50-5 (USAF Formal Schools).

(3) Enlists in grade authorized in the second table in § 888.8, but in no case higher than E-5.

(4) Agrees, in writing, to accept results of faculty board retention action if he fails to complete the course successfully.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012) [AFM 33-3, Change 2, June 26, 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. 67-10806; Filed, Sept. 14, 1967; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 67-61]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

New Jersey Intracoastal Waterway and Tributaries; Bridges

1. There were transferred to and vested in the Secretary of Transportation by subsection 6(g) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 931-950, 49 U.S.C. 1651 et seq.), certain functions, powers, and duties, previously performed by the Secretary of the Army and other officers and offices of the Department of the Army

(Corps of Engineers), including the regulation of drawbridge operations under 33 U.S.C. 499. The Secretary of Transportation, by Department of Transportation Order 1100.1 dated March 31, 1967 (49 CFR 1.4(a)(3)), delegated to and authorized the Commandant, U.S. Coast Guard to prescribe rules and regulations under the provisions of section 5 of the River and Harbor Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).

2. The New Jersey Department of Transportation, by letter dated May 22, 1966, requested the Corps of Engineers, Department of the Army, to prescribe special regulations, to be applicable from June 1 to September 30 each year, for the operation of its highway bridge across Inside Thorofare at Albany Avenue, Atlantic City, N.J. Such regulation would permit opening of the drawspan only on the hour and half hour between 9 a.m. and 9 p.m., except that it need not be opened at all between 4 p.m. and 6 p.m. Present regulations require opening of the drawspan upon signal by an approaching vessel, with resultant major disruption of highway traffic especially during the evening rush hour in summer months. The new special regulation will minimize delays to both waterborne and vehicular traffic. In accordance with the procedures in 33 CFR 209.520, Public Notice dated June 14, 1966, setting forth the proposed revision of the regulations governing this drawbridge, was issued by Philadelphia District, Corps of Engineers, and was made available to all persons known to have an interest in this subject. After consideration of all comments submitted in response thereto the proposal is accepted, subject to the right to change these requirements and to amend the regulations if and when necessary in the public interest. The purpose of this document is to amend the requirements in 33 CFR 117.220(d) (formerly § 203.220(d)) and to prescribe special regulations for the operation of the highway drawbridge across Inside Thorofare (New Jersey Intracoastal Waterway) at Albany Avenue, Atlantic City, N.J.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and Department of Transportation Order 1100.1 (49 CFR 1.4(a)(3)), the text of 33 CFR 117.220 (d) and (n) shall read as follows and shall be effective on and after 30 days after date of publication of this document in the FEDERAL REGISTER:

§ 117.220 New Jersey Intracoastal Waterway and tributaries; bridges.

* * * * *

(d) The draws in each and every bridge or group of bridges shall, upon the signal prescribed in paragraph (c) of this section, be promptly opened at any and all hours of the day or night, except as provided in paragraphs (m) and (n) of this section, for the passage of any vessel, vessels, or other watercraft unable to pass safely beneath the draw when closed. For bridges crossing the New Jersey Intracoastal Waterway, failure of the draws to be fully opened within 4 minutes from the signal to open shall be considered a violation of the requirement for prompt opening, except as provided in paragraphs (m) and (n) of this section.

* * * * *

(n) From June 1 to September 30, inclusive, the drawspan of the Albany Avenue bridge over Inside Thorofare at Atlantic City, N.J., shall be required to open only on the hour and half hour between 9 a.m. and 9 p.m., daily, except that between 4 p.m. and 6 p.m., daily, the drawspan shall not be required to open for the passage of vessels or craft. When once opened for the passage of any vessel or craft during these hours the said bridge shall remain open sufficiently long to permit the passage of all vessels or craft which may be engaged in passing or which may be presenting themselves for passage.

(Sec. 5, 28 Stat. 362, as amended; 33 U.S.C. 499. Department of Transportation Order 1100.1, Mar. 31, 1967; 49 CFR 1.4(a)(3)(v), 32 F.R. 5606)

Dated: September 8, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 67-10825; Filed, Sept. 14, 1967; 8:46 a.m.]

[CGFR 67-59]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Bear Creek, Md.

1. There were transferred to and vested in the Secretary of Transportation, by subsection 6(g) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 931-950, 49 U.S.C. 1651 et seq.), certain functions, powers and duties previously performed by the Secretary of the Army and other officers and offices of the Department of the Army (Corps of Engineers) which included the regulation of drawbridge operations under 33 U.S.C. 499. The Secretary of Transportation, by Department of Transportation Order 1100.1 dated March 31, 1967 (49 CFR 1.4(a)(3)), delegated to and authorized the Commandant, U.S. Coast Guard, to prescribe rules and regulations under the provisions of section 5 of the River and Harbor Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).

2. The Department of Public Works, Baltimore County, Md., by letter dated December 7, 1966, requested the Corps of Engineers, Department of the Army, to authorize the conversion of the Baltimore County highway drawbridge across Bear Creek at Wise Avenue to a fixed span stationary bridge. This was not considered to be appropriate at the time and an alternate proposal, requiring that at least 4 hours advance notice be given for the opening of the drawspan was substituted therefor with the concurrence of the Department of Public Works. In accordance with the procedures in 33 CFR 209.520, Public Notice dated February 23, 1967, describing this alternate proposal was issued by Baltimore District, Corps of Engineers, and was made available to all persons known to have an interest in this subject. After consideration of all comments submitted in response thereto, the alternate proposal is accepted, subject to the right to change these requirements and to amend these regulations if and when necessary in the public interest. The purpose of this document is to announce the transfer of the regulations in 33 CFR Part 203 to 33 CFR Part 117, as well as to amend the requirements in 33 CFR 117.245(f)(5-a) (formerly § 203.245(f)(5-a)).

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and Department of Transportation Order 1100.1 (49 CFR 1.4(a)(3)), the text of 33 CFR 117.245(f)(5-a) (formerly § 203.245(f)(5-a)) shall read as follows and shall be effective on and after 30 days after date of publication of this document in the FEDERAL REGISTER:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) *Waterways discharging into Chesapeake Bay.* * * *

(5-a) Bear Creek, Md.; the Baltimore County highway bridge at Wise Avenue. At least 4 hours' advance notice required.

* * * * *

(Sec. 5, 28 Stat. 362, as amended; 33 U.S.C. 499. Department of Tranaportation Order 1100.1, Mar. 31, 1967; 49 CFR 1.4(a)(3)(v), 32 F.R. 5606)

Dated: September 8, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 67-10823; Filed, Sept. 14, 1967; 8:46 a.m.]

[CGFR 67-63]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Choptank River, Md.

1. There were transferred to and vested in the Secretary of Transportation by subsection 6(g) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 931-950, 49 U.S.C. 1651 et seq.), certain functions, powers, and duties, previously performed by the Secretary of the Army and other officers and offices of the Department of the Army (Corps of Engineers), including the regulation of drawbridge operations under 33 U.S.C. 499. The Secretary of Transportation, by Department of Transportation Order 1100.1 dated March 31, 1967 (49 CFR 1.4(a)(3)), delegated to and authorized the Commandant, U.S. Coast Guard, to prescribe rules and regulations under the provisions of section 5 of the River and Harbor Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).

2. The County Commissioners of Caroline County, Md., by letter dated November 3, 1966, requested the Corps of Engineers, Department of the Army, to require that the railroad drawbridge across the Choptank River at Denton, Md., be restored to operation so as to provide passage for marine traffic. In accordance with the procedures in 33 CFR 209.520, Public Notice dated May 8, 1967, setting forth the proposed revision of the regulations governing this drawbridge, was issued by Commander, Fifth Coast Guard District and was made available to all persons known to have an interest in this subject. No objections were submitted in response thereto and the proposal is accepted, subject to the right to change these requirements and to amend the regulations if and when necessary in the public interest. The purpose of this document is to amend the requirements in 33 CFR 117.245(f)(12) (formerly § 203.245(f)(12)) to prescribe special regulations for the operation of the Pennsylvania Railroad Company drawbridge across Choptank River at Denton, Md.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and Department of Transportation Order 1100.1 (49 CFR 1.4(a)(3)), the text of 33 CFR 117.245 (f)(12) (formerly § 203.245(f)(12)) shall read as follows and shall be effective on and after 30 days after date of publication of this document in the FEDERAL REGISTER.

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) *Waterways discharging into Chesapeake Bay.* * *

(12) Choptank River, Md.; the Pennsylvania Railroad Co. bridge at Denton. The draw shall, upon signal, be opened for the passage of vessels from May 30 through September 30, inclusive, between sunrise and sunset. Between sunset and sunrise from May 30 through September 30, inclusive, and during all hours between October 1 and May 29, inclusive, the draw will be opened upon 4 hours advance notice.

* * * * *

(Sec. 5, 28 Stat. 362, as amended; 33 U.S.C. 499. Department of Transportation Order 1100.1, Mar. 31, 1967; 49 CFR 1.4(a)(3)(v), 32 F.R. 5606)

Dated: September 8, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 67-10824; Filed, Sept. 14, 1967; 8:46 a.m.]

[CGFR 67-62]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

San Joaquin River and Its Tributaries, Calif.

1. There were transferred to and vested in the Secretary of Transportation by subsection 6(g) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 931-950, 49 U.S.C. 1651 et seq.), certain functions, powers, and duties, previously performed by the Secretary of the Army and other officers and offices of the Department of the Army (Corps of Engineers), including the regulation of drawbridge operations under 33 U.S.C. 499. The Secretary of Transportation, by Department of Transportation Order 1100.1 dated March 31, 1967 (49 CFR 1.4(a)(3)), delegated to and authorized the Commandant, U.S. Coast Guard, to prescribe rules and regulations under the provisions of section 5 of the River and Harbor Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).

2. The Western Pacific Railroad Co., by letter dated August 4, 1966, requested the Corps of Engineers, Department of the Army, to maintain as a fixed span their railroad bridge across the San Joaquin River at Mossdale, Calif. Other drawbridges across the San Joaquin River in this area have been changed to fixed bridges, and highway bridges have been constructed with vertical clearances similar to that of this drawbridge with the drawspan in closed position. This drawbridge also has not been opened in the last 5 years for the passage of marine traffic. In accordance with the procedures in 33 CFR 209.520, Public Notice dated October 24, 1966, setting forth the proposed revision of the regulations governing this drawbridge, was issued by Sacramento District Corps of Engineers, and was made available to all persons known to have an interest in this subject. After consideration of all comments submitted in response thereto the proposal is accepted, subject to the right to change these requirements and to amend the regulations if and when necessary in the public interest. The purpose of this document is to amend the requirements in 33 CFR 117.714(a)(6) (formerly § 203.714(a)(6)).

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632, and Department of Transportation Order 1100.1 (49 CFR 1.4(a)(3)), the text of 33 CFR 117.714 (a)(6) (formerly § 203.714(a)(6)) shall read as follows and shall be effective on and after 30 days after date of publication of this document in the FEDERAL REGISTER:

§ 117.714 San Joaquin River and its tributaries, California.

(a) *San Joaquin River.* * * *

(6) *Southern Pacific Co. railroad bridge, State of California highway bridges (Mossdale Bridges) and Western Pacific Railroad Co. bridge near Mossdale.* The draws of these bridges need not be opened for the passage of vessels.

* * * * *

(Sec. 5, 28 Stat. 362, as amended; 33 U.S.C. 499. Department of Transportation Order 1100.1, Mar. 31, 1967; 49 CFR 1.4(a)(3)(v), 32 F.R. 5606)

Dated: September 8, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 67-10822; Filed, Sept. 14, 1967; 8:46 a.m.]

[CGFR 67-65]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

North Portland Harbor (Oregon Slough), Oreg.

1. There were transferred to and vested in the Secretary of Transportation by subsection 6(g) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 931-950, 49 U.S.C. 1651 et seq.), certain functions, powers, and duties, previously performed by the Secretary of the Army and other officers and offices of the Department of the Army (Corps of Engineers), including the regulation of drawbridge operations under 33 U.S.C. 499. The Secretary of Transportation, by Department of Transportation Order 1100.1 dated March 31, 1967 (49 CFR 1.4(a)(3)), delegated to and authorized the Commandant, U.S. Coast Guard, to prescribe rules and regulations under the provisions of section 5 of the River and Harbor Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).

2. The Spokane, Portland & Seattle Railroad Co., by letter dated December 8, 1965, requested the Corps of Engineers, Department of the Army, to amend the existing regulations governing the operation of its bridge across North Portland Harbor (Oregon Slough), Oreg., by requiring that at least one (1) hour advance notice be given for opening the bridge. Objections received to Public Notice dated December 27, 1965, indicated that the proposal was not acceptable. Subsequently, proposal was made for opening the bridge on thirty (30) minutes' advance notice given by two-way radio or telephone to the operator of the Railway Company's bridge across Columbia River. In accordance with the procedures in 33 CFR 209.520, Public Notice dated May 16, 1966, setting forth the proposed revision of the regulations governing this drawbridge, was issued by Portland District, Corps of Engineers, and was made available to all persons known to have an interest in this subject. After consideration of all comments submitted in response thereto the proposal is accepted, subject to the right to change these requirements and to amend the

regulations if and when necessary in the public interest. The purpose of this document is to amend the requirements in 33 CFR 117.750(b)(5)(iii) (formerly § 203.750(b)(5)(iii)) and to prescribe special regulations for the operation of the Spokane, Portland & Seattle Railroad Co. drawbridge across North Portland Harbor (Oregon Slough) at Portland, Oreg.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and Department of Transportation Order 1100.1 (49 CFR 1.4(a)(3)), the text of 33 CFR 117.750 (b)(5)(iii) (formerly § 203.750(b)(5)(iii)) shall read as follows and shall be effective on and after 30 days after date of publication of this document in the FEDERAL REGISTER:

§ 117.750 Willamette River at Portland, Oreg., Columbia River at Vancouver, Wash., and North Portland Harbor (Oregon Slough), Oreg.; bridges (highway and railroad): Signals.

* * * * *

(b) * * *

(5) * * *

(iii) Spokane, Portland, and Seattle Railway Bridge at North Portland Harbor (Oregon Slough).

(a) The owner of or agency controlling this bridge shall not be required to keep a tender at the bridge. Operators of vessels unable to pass under the bridge in closed position shall give the authorized representative of the owner of or agency controlling the bridge, by telephone or two-way marine radio, at least one-half hours' advance notice of the time at which such opening will be required. The bridge shall be opened at any time upon receipt of the required notice.

(b) Vessels requiring an opening of the bridge shall direct their calls to the Spokane, Portland, and Seattle Railway drawbridge over the Columbia River at Vancouver, Wash.

(c) The owner of or agency controlling this bridge shall keep conspicuously posted on the bridge a notice stating exactly how the representative stated above may be reached, including radio frequencies and call sign. This notice shall be posted on both the upstream and downstream sides of the bridge and in such a manner that it can be read at all times.

* * * * *

(Sec. 5, 28 Stat. 362, as amended; 33 U.S.C. 499. Department of Transportation Order 1100.1, Mar. 31, 1967; 49 CFR 1.4(a)(3)(v), 32 F.R. 5606)

Dated: September 8, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 67-10826; Filed, Sept. 14, 1967; 8:46 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Platt National Park, Okla.; Revocation

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535), and 245 DM-1 (27 F.R. 6395), as amended, Part 7 of Title 36 of the Code of Federal Regulations is amended as set forth below.

The effect of this amendment is to revoke the special regulations applicable within Platt National Park.

Inasmuch as this amendment revokes prior restrictions, advance publication of this notice of rule making, and a delayed effective date are determined to be unnecessary and impractical. Therefore, this amendment shall take effect immediately upon publication thereof in the FEDERAL REGISTER.

Part 7 of Title 36 of the Code of Federal Regulations is hereby amended by revoking § 7.17, *Platt National Park.*

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

HOWARD W. BAKER,
Director, National Park Service.

[F.R. Doc. 67-10815; Filed, Sept. 14, 1967; 8:46 a.m.]

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Canyon de Chelly National Monument, Ariz.; Visitor Use

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535), 245 DM-1 (27 F.R. 6395), National Park Service Order No. 34 (31 F.R. 4255), Regional Director, Southwest Region Order No. 4 (31 F.R. 8134), as amended, Part 7 of Title 36 of the Code of Federal Regulations is amended by the addition of a new § 7.19, as is set forth below. The purpose of this amendment is to control public access to the canyons of Canyon de Chelly National Monument by requiring that all visitors be accompanied by National Park Service employees or authorized guides, except in such areas as the Superintendent may designate. The regulation is promulgated to provide for safety of the public from quicksand and other natural hazards in the monument, and to protect the archeological features within the monument. This regulation in no way impairs or modifies the rights of the Navajo Tribe of Indians as already provided by Treaty and/or Statute.

Inasmuch as the heavy visitor use season is in progress and the monument requires the protection which will be afforded by this regulation during this heavy visitor use season, it has been determined that public comment hereon is impracticable and would be contrary to the public interest. Therefore, this regulation shall take effect immediately upon publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

Part 7 of Title 36 of the Code of Federal Regulations is amended by the addition of a new 7.19, reading as follows:

§ 7.19 Canyon de Chelly National Monument.

(a) Visitors are prohibited from entering the canyons of Canyon de Chelly National Monument unless accompanied by National Park Service employees or by authorized guides: *Provided, however,* That the Superintendent may designate, by marking on a map which shall be available for public inspection in the Office of the Superintendent and at other convenient locations within the monument, canyons or portions thereof which may be visited or entered without being so accompanied.

(b) The Superintendent may issue permits to properly qualified persons to act as guides for the purpose of accompanying visitors within the canyons.

JOHN E. COOK,
Superintendent, Canyon de Chelly National Monument.

AUGUST 22, 1967.

[F.R. Doc. 67-10888; Filed, Sept. 14, 1967; 8:51 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

SUBCHAPTER L—ORGANIZATION STATEMENTS

PART 821—OFFICE OF THE POSTMASTER GENERAL AND DEPUTY POSTMASTER GENERAL

PART 822—BUREAUS AND OFFICES

Office of Regional Administration and Office of the General Counsel

The regulations of the Post Office Department are amended as follows:

I. Section 821.8 is republished to show that the duties under the Contract Compliance Program have been moved from the Office of Regional Administration to the Office of General Counsel.

§ 821.8 Office of Regional Administration.

(a) The Director acts for the Postmaster General in directing and coordinating with bureaus and offices the activities of the regional offices and postal

data centers to assure that the Regional Director and Director, Postal Data Center effectively execute the policies, regulations, procedures, projects, and programs of the bureaus and offices.

(b) Directs management appraisal of regional office and postal data center operations and performance on a regularly scheduled basis to see that regional offices and postal data centers carry out the policies and programs of the bureaus and offices; advises bureaus and offices of appraisal findings.

(c) Analyzes policies and programs of bureaus and offices which have a substantial effect on regional and postal data center management, requirements, and suggests modifications needed to reflect Department plans and objectives, to achieve uniformity of administration in regional offices and postal data centers, and to obtain optimum results therein.

(d) Establishes standards and ceilings for determining regional and postal data center organization and complements; establishes and approves regional office and postal data center budgets and funds.

(e) Develops, in cooperation with Bureau of Personnel, programs for training and indoctrination of regional and postal data center personnel; coordinates such programs with bureaus and offices.

(f) Coordinates with the bureaus and offices in the selection and discipline of regional and postal data center personnel in their areas of responsibility.

II. Section 822.2 is revised to show the new organizational statement of the Office of General Counsel.

§ 822.2 Office of the General Counsel.

(a) *The General Counsel.* (1) Serves as legal adviser to the Postmaster General, the Deputy Postmaster General, and the entire Postal Establishment with respect to—

(i) Legal interpretations and opinions;

(ii) Drafting or approving all legal documents;

(iii) Legal matters involved in all stages of procurement and contracting activities, including matters of compliance with Federal procurement regulations and departmental regulations and instructions; and

(iv) Conduct of administrative hearings before regulatory agencies of the Federal Government and assist Department of Justice in court proceedings on behalf of the Department.

(2) Institutes proceedings under the Administrative Procedure Act in fraud and mailability cases, and defends decisions of administrative officials involving entry of second-class mail or suspension of second-class mailing privileges. He does not advise or consult with the Judicial Officer or the Hearing Examiners with respect to their performance of the duties and functions assigned to them under § 821.3 of this chapter, except in the disposition of ex parte matters as authorized by law, nor does he participate in the decision of the Judicial Officer or Hearing Examiners.

(3) Executes all documents of the Department submitted to the Federal Register Division of the National Archives and Records Service for publication.

(4) Acts as legislative officer for the Department by drafting bills, preparing reports on proposed legislation, and representing the Department in hearings and conferences on legislative matters.

(5) Maintains liaison with other agencies of the Government on legal matters and determines questions concerning legal relations between the Department and other agencies.

(6) Collaborates with the security officer (Chief Postal Inspector) in developing procedures and taking action required to effectuate laws, Executive orders, and instructions of the President relating to personnel security.

(7) Makes rulings and advisory opinions, with authority to redelegate the function to General Counsel staff members and to regional counsel, as to mailability of matter under laws covering fraud, obscene matter, lotteries, subversive matter, extortions and threats, and firearms.

(8) Acts for the Postmaster General in the settlement of personal injury or property damage claims arising under the Federal Tort Claims Act, with authority to redelegate the functions to General Counsel staff members, to regional counsel, and, with the concurrence of the Chief Postal Inspector, to postal inspectors; and formulates and administers policies and standards governing the adjudication and settlement by Regional Directors and Directors, Postal Data Centers of personal injury or property damage claims arising under the Federal Tort Claims Act and the settlement by Regional Directors or Directors, Postal Data Centers of postmasters' losses due to fire, burglary, theft, or other unavoidable casualty. Acts for the Postmaster General, with authority to redelegate the function to General Counsel staff members, in the settlement of claims for damage to or loss of personal property of employees incident to their service.

(9) Acts for the Department in requesting the Department of Justice to institute or defend civil suits involving the Post Office Department or its operations.

(10) Initiates and prosecutes, in his name or by his designee, mailability proceedings under laws prohibiting the mailing of fraud, lottery, obscene, subversive, extortive, or threatening matter and firearms.

(11) Initiates and prosecutes, in his name or by his designee, cases seeking the issuance of final agency "fraud," "unlawful business," and "fictitious name" orders.

(12) Determines legal questions arising in the use of the frank for the transmission of mail matter.

(13) Authorizes the closing of post office boxes when used in violation of law or regulation.

(14) Provides experienced attorneys to serve as members of contract negotiating teams which deal with negotiated contracts over $2,500.

(15) Provides legal services to regional offices either directly or through regional counsels and counsels to the Regional Director. Reviews their work and furnishes policy and technical guidance to regional counsels and counsels to the Regional Director in performing their functions. Advises Regional Directors on employment and professional development of these officials.

(16) Acts as ethical conduct counselor for the Department.

(17) Acts as agent for the receipt of legal process on behalf of the Postmaster General and other Headquarters officials resulting from the performance of their official functions.

(18) Acts for the Postmaster General in rendering final decisions on behalf of the Department on appeals from denials for access to records maintained in the Department or Field Service.

(19) Directs nationwide contract compliance program (Executive Order 10925 as amended by Executive Order 11114), to promote and insure equal employment opportunity for all qualified persons without regard to race, creed, color, or national origin employed or seeking employment on Government contracts.

(b) *Deputy General Counsel.* (1) Exercises direct professional supervision over the staff of the Office of the General Counsel.

(2) Provides the General Counsel with recommended interpretations, opinions, regulations, and procedures on matters requiring legal action.

(3) Represents and acts for the General Counsel in his absence or at his request.

(c) *Administrative Officer.* Assists and, as directed, acts for the General Counsel in matters of organization, management, budget and personnel administration, and other related staff activities, and performs such other duties as assigned by the General Counsel.

(d) *Divisions*—(1) *Claims Division.* (i) Is responsible for all matters involving the Post Office Department which arise under the provisions of the Federal Tort Claims Act.

(ii) Correlates the responsibilities, rights, and respective spheres of action of Federal and State governments under motor vehicle safety responsibility laws.

(iii) Is responsible for all matters pertaining to the adjudication of claims for property damage sustained by postal employees which arise under the Military Personnel and Civilian Employees' Claims Act of 1964.

(iv) Is responsible for all legal matters pertaining to recoveries for damage to post office property.

(v) Exercises for the General Counsel appellate review of claims by postmasters for unavoidable losses by fire, burglary, or other casualty.

(vi) Collaborates and maintains liaison with the Department of Justice and other agencies of the Government in matters involving a through e.

(2) *Mailability Division.* (i) Prepares interpretations as to mailability of matter under statutes relating to obscenity, fraud, lotteries, subversive, defamatory,

extortious and threatening material, and firearms.

(ii) Prepares and tries before hearing examiners and the Judicial Officer cases arising under statutes covering obscene matter, lotteries, defamations, fraudulent use of the mail, and second-class mail matters involving questions of obscenity.

(iii) Considers and recommends to the General Counsel the closing of post office boxes used for deceptive or immoral purposes.

(iv) Assists and collaborates with the Department of Justice in the handling of court proceedings brought against the Post Office Department involving subdivisions (i), (ii), and (iii) of this subparagraph.

(3) *Legislative Division.* (i) Coordinates with the Department the analysis, interpretation, and preparation of reports on proposed legislation affecting the Postal Establishment.

(ii) Prepares and coordinates the legislative program of the Department, including the drafting of bills, maintenance of liaison with other agencies of the Government, and participation in appearances before congressional committees and the Bureau of the Budget.

(iii) Determines legal questions arising in the use of the Congressional frank.

(iv) Approves the issuance of regulations and directives on behalf of the General Counsel.

(v) Determines the rule making requirements of the Administrative Procedure Act, and acts for the Department on all material to be published in the FEDERAL REGISTER.

(4) *Opinions Division.* (i) Prepares interpretations of laws, regulations, treaties, and conventions. Prepares opinions as requested.

(ii) Examines, approves, or drafts contracts and bonds.

(iii) Recommends disposition of questions arising from application of the Private Express Statutes.

(iv) Recommends approval of procedures and actions under laws and executive orders relating to personnel security.

(v) Prepares and tries before hearing examiners and the Judicial Officer cases involving the denial of entry or revocation of entry of second-class mail when obscenity questions are not involved.

(vi) Aids and assists in the negotiation of and interpretation of agreements made with organizations which are the representatives of postal employees.

(vii) Performs all legal services in the negotiation of and interpretation of contracts, laws and regulations for the procurement of services and supplies in those procurement matters not assigned to other divisions of the Office of the General Counsel.

(viii) Aids and assists in the interpretation and implementation of laws affecting personnel in the Postal Service and Headquarters.

(ix) Assists and collaborates with the Department of Justice in the institution and defense of civil suits involving the Department other than those handled by other divisions of the Office of the General Counsel.

(5) *Real Property Division.* (i) Prepares legal opinions and documents, approves contracts as to legal sufficiency, and performs all other legal services arising from the acquisition, disposal, and leasing of real property or space by the Post Office Department.

(ii) Performs the legal services in connection with the acquisition, construction, alteration, extension, and modernization of federally owned buildings used primarily for postal purposes.

(iii) Assists and collaborates with the Department of Justice in all matters pertaining to subdivisions (i) and (ii) of this subparagraph.

(6) *Transportation Division.* (i) Prepares and tries before regulatory bodies, and other agencies of the Government, cases dealing with the transportation of mail, and transportation rates paid by the Department to railroads and airlines and postage rates.

(ii) Acts in all matters pertaining to contracts for the transportation of mail.

(iii) Collaborates and maintains liaison with the Department of Justice and other Government agencies in matters involving the work defined in subdivisions (i) and (ii) of this subparagraph.

(e) *Offices*—(1) *Contract Compliance Office.* (i) Directs nationwide contract compliance program (Executive Order 10925 as amended by Executive Order 11114), to promote and insure equal employment opportunity for all qualified persons without regard to race, creed, color, or national origin employed or seeking employment on Government contracts.

(2) *Labor Standards and Ethical Conduct Office.* (i) Assists and acts on behalf of the General Counsel who is the ethical conduct counsler for this Department in all matters relating to ethical conduct and conflict of interest matters.

(ii) Renders legal advisory services concerning labor standards and employment policy provisions, including equal employment opportunity under E.O. 11246, and is the liaison with the Department of Labor on behalf of the General Counsel.

(iii) Acts for the General Counsel in rendering final decisions on behalf of the Department on appeals from denials for access to records maintained in the Department or Field Service.

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

SEPTEMBER 11, 1967.

[F.R. Doc. 67-10858; Filed, Sept. 14, 1967; 8:50 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 9-4.51—Washington-Designated Research Agreements and Contracts With Educational Institutions

PART 9-16—PROCUREMENT FORMS

Subpart 9-16.50—Contract Outlines

MISCELLANEOUS AMENDMENTS

Subparts 9-4.51 and 9-16.50 are amended to state the procedures by which items in support of research work may be excluded from proportionate sharing of costs and to state the record-keeping and reporting requirements on such excluded items. Other minor amendments are also made.

1. In § 9-4.5107-2, *Special research support agreements*, paragraph (c-1) is added, as follows:

§ 9-4.5107-2 Special research support agreements.

* * * * *

(c-1) Normally, all costs of performing the research work under the support agreement will be included in the costs subject to proportionate sharing. Items subject to proportionate sharing will be listed under Article A-II(a) of Appendix A of the contract (AECPR 9-16.5002-8). In exceptional cases, particular items may be contributed by the contractor or the Government and excluded from any proportioning of costs; such items will be listed under Article A-II(b) of Appendix A. All contractor proposals to exclude items from proportionate sharing of costs are to be reviewed by the cognizant AEC Program Division to determine whether such exclusion is appropriate. In the event approval is given to exclude a proposed contractor contribution from Article A-II(a), the contract should reflect the nature and extent of the contractor's commitment to contribute the item, and the contractor shall maintain records adequate to permit the AEC to determine whether the commitment has been fulfilled to the extent necessary; if the principal investigator or other professional research staff are approved for exclusion from Article A-II (a), the contractor shall maintain time or effort records in support of the costs of such personnel on the research work under the contract. The contractor shall certify, in accordance with Appendix C of the contract, the extent to which the item or items under Article A-II(b) have been contributed. Government-owned property to be furnished under Article V or Article B-IX of the contract may

also be excluded from proportionate cost-sharing and listed under Article A–II(b).

* * * * *

2. In § 9–4.5109–7, *Equipment report*, paragraph (a) is amended by changing "Appendix A" to read "Article B–XXI." Paragraph (b) is amended by changing "Controller" to read "Director, Division of Contracts." As so amended, § 9–4.5109–7 reads as follows:

§ 9–4.5109–7 Equipment report.

(a) An equipment report itemizing equipment having an anticipated service life of 1 year or more and an acquisition cost in excess of $100, either purchased or fabricated, when title to such equipment is vested in the contractor, shall be furnished by the contractor immediately following the expiration of the contract year, in accordance with Article B–XXI of the special research support agreement set forth in AECPR 9–16.5002–8 (omit any item covered by Article V, Government Property, of this contract), and in accordance with the requirements of Appendix A–III of the cost-type contract set forth in AECPR 9–16.5002–9. Where the cost of individual pieces of equipment exceeds $1,000, they shall be listed individually. Where individual items cost between $100 and $1,000, they shall also be listed individually to the extent practicable, or grouped in general categories, such as "electronics equipment" or "six motors," with the total dollar amount of such category. The cost of purchased items shall be determined by the actual invoice cost of such items, but the cost of fabricated items may be established by engineering estimates.

(b) In order to satisfy the requirements of the Grant Act (Public Law 85–934), Managers of Field Offices shall forward to the Director, Division of Contracts, Headquarters, not later than March 15 of each year, the original and one copy of each equipment report referred to in paragraph (a) of this section, identifying each item purchased with AEC funds and titled in the contractor under the Grant Act, submitted by contractors for the preceding calendar year.

3. Section 9–4.5112–4, *Payments under cost-type contracts*, is revised to read as follows:

§ 9–4.5112–4 Payments under cost-type contracts.

Payments for allowable costs incurred under cost-type contracts will be made in accordance with the provisions of the contract. Payments will generally be made on the basis of after-the-fact reimbursement of contractor costs upon submission by the contractor of an appropriate monthly invoice or voucher. In the event that it is determined that advance payments to the contractor are appropriate, the letter of credit procedure, as provided for by Treasury Department Circular No. 1075, Revised, of February 13, 1967, may be used when the total of AEC contracts at an institution provide for a continuing annual level of support of $250,000 or more.

4. In § 9–4.5112–5, *AEC approval of deviations in performance and other specified actions*, paragraph (a) (2) (ii) is amended by changing "10 percent or $500, whichever is less" to read "$500 or more." As so amended, § 9–4.5112–5 (a) (2) (ii) reads as follows:

§ 9–4.5112–5 AEC approval of deviations in performance and other specified actions.

(a) * * *

(2) * * *

(ii) Any equipment which is not specifically itemized in the contract, if the cost of acquisition will cause the total equipment dollar level shown in Appendix A of the contract to be increased by $500 or more. (If plant and capital equipment funds are provided for the acquisition of equipment, with title to be vested in the Government, the total cost of such equipment acquisitions shall not exceed the amount budgeted for such equipment unless prior AEC approval has been obtained.)

* * * * *

5. In § 9–16.5002–8, *Outline of special research support agreement with educational institutions*, the footnote to paragraph (b) of Article III—Consideration, is revised.

6. In § 9–16.5002–8, *Outline of special research support agreement with educational institutions*, paragraph (c) of Article B–II—Inspection, Reports, Records and Accounts, is revised.

7. In § 9–16.5002–8, *Outline of special research support agreement with educational institutions*, paragraph (a) of Article B–XXVII—Determination of Total Costs, is revised.

8. In § 9–16.5002–8, *Outline of special research support agreement with educational institutions*, subdivision (a) (1) (ii) of Article B–XXVIII—Additional Approvals, is revised.

9. In § 9–16.5002–8, *Outline of special research support agreement with educational institutions*, item 7 is added to Appendix C.

The affected portions of § 9–16.5002–8 read as follows:

§ 9–16.5002–8 Outline of special research support agreement with educational institutions.

* * * * *

ARTICLE III—CONSIDERATION

* * * * *

[18] (b) * * *

* * * * *

ARTICLE B–II—INSPECTION, REPORTS, RECORDS AND ACCOUNTS

* * * * *

[18] Normally all costs of the research work will be included in the costs subject to proportionate sharing; however, in exceptional cases particular items may be contributed by the Contractor or the Government and excluded from any proportioning of costs. All items to be subject to costsharing will be listed under Article A–II(a) of Appendix A of this contract, and items to be contributed solely by the Contractor or the Government will be listed under Article A–II(b) of Appendix A. Items which may be listed in Article A–II(b) will be determined in accordance with AECPR 9–4.5107–2(c–1).

(c) The Contractor agrees to keep records and books of account, in accordance with generally accepted accounting principles and practices, covering its costs and expenditures for items included under Article A–II(a) of Appendix A and which are in furtherance of the research work under this contract. In the event a contractor contribution is excluded from Article A–II(a), and listed in Article A–II(b), the Contractor shall maintain records adequate to permit the AEC to determine whether the commitment has been fulfilled to the extent necessary; if the principal Investigator or other professional research staff are listed under Article A–II (b), the Contractor shall maintain time or effort records in support of the costs of such personnel to the same extent as if such personnel were included under Article A–II(a).

* * * * *

ARTICLE B–XXVII—DETERMINATION OF TOTAL COSTS

(a) The term "total cost" as used in this contract means the sum of costs incurred by the Contractor for items included under Article A–II(a) of Appendix A, which are in furtherance of the work hereunder, and may include the following: Expenditures of cash, exclusive of cash payments relating to items included in the total cost of a prior period; the cost of material and supplies transferred from stores inventory; unpaid delivered orders for services, supplies, and equipment; unpaid undelivered orders (commitments) for items of equipment; unpaid undelivered orders (commitments) for materials and supplies purchased in normal and reasonable quantities; and the amount due the Contractor for indirect costs in accordance with the rate and factor or factors shown in Appendix A of this contract. Except as the parties may otherwise specifically agree in writing, total cost will apply separately to each annual (or lesser) period of performance. Total cost for a contract period shall be determined consistent with the principles of the Bureau of the Budget Circular A–21, as constituted on the effective commencement date of said period.

* * * * *

ARTICLE B–XXVIII—ADDITIONAL APPROVALS

(a) * * *

(1) * * *

(ii) Any equipment not itemized in Appendix A, the acquisition cost of which will cause the equipment dollar level shown in Appendix A to be increased by $500 or more. (If plant and equipment funds are provided for the acquisition of equipment, with title to be vested in the Government, the total cost of such equipment acquisitions shall not exceed the amount budgeted for such equipment unless prior AEC approval has been obtained.)

* * * * *

APPENDIX C [18]

* * * * *

7. Information regarding contributions by the Contractor and not included in proportionate sharing of costs. Stta eheetxing tionate sharing of costs. State the extent of the Contractor's actual contribution of items listed under Article A–II(b) of Appendix A; the measure of such contributions should be in the same terms as the Contractor's commitment under Article A–II(b), e.g., time, dollars, etc. A contractor contribution of a principal investigator or other professional research staff shall be reported in terms of time or effort and costs for each such investigator.

* * * * *

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec.

205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390; 40 U.S.C. 486)

Effective date. These amendments are effective upon publication in the FEDERAL REGISTER.

Dated at Germantown, Md., this 8th day of September 1967.

For the U.S. Atomic Energy Commission.

A. J. HART,
Acting Director,
Division of Contracts.

[F.R. Doc. 67-10803; Filed, Sept. 14, 1967; 8:45 a.m.]

Chapter 11—Coast Guard, Department of Transportation

[CGFR 67-34]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Pursuant to authority vested in me as Commandant, U.S. Coast Guard, by 49 CFR 1.4:

PART 11-1—GENERAL

Subpart 11-1.3—General Policies

1. Section 11-1.353 is added, reading as follows:

§ 11-1.353 Treatment of data and other information submitted with unsolicited proposals.

§ 11-1.353-1 Policy for unsolicited proposals.

It is the policy of Coast Guard to use technical data included in unsolicited proposals for evaluation purposes only. However, due to the administrative problems in handling unsolicited proposals received, the Government cannot assume liability for disclosure or use of such technical data unless it is marked by the submitter in accordance with the following provisions. Each proposal containing technical data, which the submitter intends to be used by Coast Guard for evaluation purposes only, should be marked on the cover sheet with the following legend and shall specify the pages of the proposal which are to be restricted in accordance with the conditions of the legend:

Technical data contained in pages ------ of proposal shall not be used or disclosed, except for evaluation purposes: *Provided*, That if a contract is awarded to this submitter as a result of or in connection with the submission of this proposal, the Government shall have the right to use or disclose this technical data to the extent provided in the contract. This restriction does not limit the Government's right to use or disclose any technical data obtained from another source without restriction. (July 1967)

Contracting officers shall not refuse to consider any proposal merely because technical data submitted with that proposal is marked. Technical data so marked shall be used only to evaluate proposals and shall not otherwise be used or disclosed without the written permission of the submitter except under the conditions provided in the legend. Unsolicited proposals submitted with restrictive legends or statements differing from the above legend will be treated under the terms of the above legend.

§ 11-1.353-2 Coast Guard notice for unsolicited proposals.

In order to assure that unsolicited proposals are handled in accordance with the policy set forth in § 11-1.353-1, the following notice shall be affixed to each unsolicited proposal (including those containing the legend set forth in § 11-1.353-1) when it is received by Coast Guard. This notice in no way alters any obligation of the Government. The notice can be applied to the unsolicited proposal either as a stamp or in the form of a cover sheet.

COAST GUARD NOTICE OF DOCUMENT HANDLING (JULY 1967)

This unsolicited proposal shall be used and duplicated only for evaluation purposes and this Coast Guard notice shall be applied to any reproduction of this document or abstract thereof.

In the event this document is disclosed outside the Government to obtain a Coast Guard evaluation, notice is hereby given to the recipient that it is Coast Guard's policy to use technical data included in this proposal for evaluation purposes only and the recipient receives the proposal under the condition that it will be used and disclosed only for purposes of furnishing an evaluation to the Government. This restriction does not apply to technical data obtained from another source without restriction.

§ 11-1.353-3 Evaluation and testing of equipment and material.

Should evaluation of a proposal include the evaluation and testing of equipment or material, neither the Government nor any person acting on behalf of the Government assumes any liability to the submitter of the proposal, or any person acting on his behalf, in connection with any damage, loss, injury, or destruction resulting from such evaluation and testing. Nothing contained herein shall preclude the Government from asserting any action against the submitter or any person acting on his behalf arising out of the above circumstances.

(14 U.S.C. 633, 10 U.S.C. Ch. 137)

PART 11-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

2. New Subpart 11-4.52 is added, reading as follows:

Subpart 11-4.52—Unsolicited Proposals

Sec.

AUTHORITY: The provisions of this Subpart 11-4.52 issued under 14 U.S.C. 633, 10 U.S.C. Ch. 137.

Subpart 11-4.52—Unsolicited Proposals

§ 11-4.5200 Definition.

For the purpose of this subpart unsolicited proposals are research and development proposals (written or oral) made to the Government without prior formal or informal solicitation. These proposals are made by organizations or individuals acting in their own behalf.

§ 11-4.5201 General.

(a) All proposals should be specific and, as a minimum, include the information set forth below. Although it is desired that unsolicited proposals be prepared in conformance with the standards set forth below, Coast Guard may accept unsolicited proposals for evaluation purposes which do not conform thereto:

(1) Name and address of the organization submitting the proposal;

(2) Date and preparation or submission;

(3) Type of organization (profit, nonprofit, educational, other);

(4) Concise title and abstract of the proposed effort or activity for which support is being sought;

(5) An outline and discussion of the purpose of the proposed effort or activity, the method of attack upon the problem, and the nature and extent of the anticipated results;

(6) Names of the key personnel to be involved (name of principal investigator, if applicable), brief biographical information, including principal publications and relevant experience;

(7) Proposed starting and completion dates;

(8) Equipment, facility and personnel requirements;

(9) Proposed budget, including separate cost estimates for salaries and wages, equipment, expendable supplies, services, travel, subcontracts, other direct costs, and overhead;

(10) Names of any other Federal agencies receiving the proposal and/or funding the proposed effort or activity;

(11) Brief description of the proposer's facilities, particularly those which would be used in the proposed effort or activity;

(12) Brief outline of the proposer's previous work and experience in the field;

(13) If available, a descriptive brochure and a current financial statement;

(14) If proposed effort or activity requires or may generate classified security information, the security status of the organization and the major investigators, and identification of the cognizant security office;

(15) Period for which proposal is valid.

(16) Names and telephone numbers of proposer's primary business and technical personnel whom Coast Guard may contact during evaluation and/or negotiation;

(17) Each proposal containing technical data, which the submitter intends to be used by Coast Guard for evaluation purposes only, should be marked on the

cover sheet with the legend prescribed in § 11–1.353–1 of this chapter;

(18) Signature of a responsible official of the proposing organization or a person authorized to contractually obligate such organization.

(b) Proposals should be submitted well in advance of the desired beginning of support, and in ample copies to allow simultaneous study by all reviewers.

(c) All unsolicited proposals from educational and nonprofit scientific institutions, proposals from other sources, and requests for additional information regarding the preparation of unsolicited proposals should be submitted to:

Chief, Procurement Branch (FS–1), U.S. Coast Guard Headquarters, 1300 E Street NW., Washington, D.C. 20591.

§ 11–4.5202 Policy.

§ 11–4.5202–1 General.

All unsolicited proposals shall be processed in an expeditious manner. Proposals shall be acknowledged as soon after receipt as possible. Submitters shall be notified as to the ultimate disposition of their proposals.

§ 11–4.5202–2 Preliminary review.

Prior to making a comprehensive evaluation of a document submitted as an unsolicited proposal, Chief, Procurement Branch shall determine that the document:

(a) Contains sufficient technical and cost information to enable meaningful evaluation;

(b) Has been approved by a responsible official of the proposing organization or a person authorized to contractually obligate such organization;

(c) Does not merely offer to perform standard services or to provide "off-the-shelf" articles.

If the document does not meet these requirements, a comprehensive evaluation need not be made, and the document may be considered and handled as correspondence or advertising. In such cases a prompt reply shall be sent to the submitter, indicating how the document is being interpreted and the reason(s) for not considering it a proposal.

§ 11–4.5202–3 Comprehensive evaluation.

(a) Every unsolicited proposal that is circulated for comprehensive evaluation shall have attached or imprinted a legend identifying it as an unsolicited proposal, and stating that it may be used only for purposes of evaluation (see § 11–1.353–2 of this chapter).

(b) In evaluating a proposal, the evaluating office(s) shall consider, in addition to any other criteria, the following factors:

(1) The overall scientific, technical merit of the proposed effort;

(2) The potential contribution which the proposed effort is expected to make to Coast Guard's specific program objective(s), if supported at this time;

(3) The unique capabilities, related experience, facilities, instrumentation, or techniques which the proposer possess and offers, and which are considered to be integral factors for achieving the scientific, technical, or technological objective(s) of the proposal;

(4) The unique qualifications, capabilities and experience of the proposed principal investigator and/or key personnel.

(c) Comprehensive evaluations shall be coordinated according to procedures to be established by Chief, Procurement Branch.

(d) If a proposal is not to be accepted, the submitter shall be informed by a suitable letter. A copy of such letter and associated proposal shall be retained in the files of the Chief, Procurement Branch.

§ 11–4.5202–4 Method of procurement.

(a) *Competive procurement.* It is Coast Guard's policy to obtain competition whenever possible (see § 1–1.301–1 of this title). However, an unsolicited proposal shall not serve as the basis for a competitive solicitation of proposals (i.e., when an unsolicited proposal is offered in the hope that the Coast Guard will contract with the offeror for further development or exploitation of the ideas it contains, and the Coast Guard does contract with the offeror, it may do so without soliciting other sources—although they may be fully competent to perform the desired work). When a received document qualifies as an unsolicited proposal, but its substance is available to Coast Guard without restriction from another source, or its substance closely resembles that of a pending competitive solicitation or otherwise is not sufficiently unique to justify acceptance, Coast Guard's policy of obtaining competition applies. When procurement is intended and competition is feasible, the proposal shall be rejected, as in § 11–4.5202–3, and all readily available copies (excluding the Chief, Procurement Branch's official proposal file copy) shall be returned to the submitter.

(b) *Noncompetitive procurement.* A favorable technical evaluation of an unsolicited proposal is not, in itself, sufficient justification for negotiating on a noncompetitive basis with the submitter. When an unsolicited proposal has received a favorable technical evaluation and it is determined that the substance thereof is not available to Coast Guard without restriction from another source, or competition is otherwise precluded, the subject matter of such proposal may be procured from the proposer on a noncompetitive basis. The technical office sponsoring the procurement shall support its recommendation with a "Justification for Acceptance of Unsolicited Proposal." The "Justification" shall include the findings set forth in subparagraph (1), (2), or (3) of this paragraph:

(1) The procurement is to provide support to an educational institution for the development or improvement of that institution's capability to contribute to the U.S. Coast Guard's research and development program; and the proposal was selected on the basis of its overall merit, cost and potential contribution to Coast Guard program objectives, after a thorough evaluation and comparison with other proposals for similar support;

(2) The procurement is for basic scientific or engineering research; and the proposal was selected on the basis of its overall merit, cost and contribution to Coast Guard program objectives, after a thorough evaluation and comparison with other proposals in the same or related fields; or

(3) The procurement is for services other than basic research (e.g., development, feasibility studies, etc.); the proposal contains technical data or offers unique capabilities that are not available from another source; and it is not feasible or practical to define the Government's requirement in such a way as to avoid the necessity of using the technical data contained in the proposal.

In addition, the "Justification" shall include the facts and circumstances that support the recommended action. The following illustrations represent factors which should be considered, as appropriate, in preparing the "Justification":

(4) The scientific/technical merits of the unsolicited proposal and its potential contribution to Coast Guard's program objectives;

(5) The qualifications, capabilities, and related experience of the submitter, principal investigator and/or key personnel;

(6) Unique facilities, instrumentation, or techniques; and

(7) Circumstances that operate to preclude competitive negotiation.

§ 11–4.5203 Procedure.

(a) The Chief, Procurement Branch will develop guidelines for, and participate in, the receipt, proper handling and disposition of unsolicited proposals from all sources.

(b) When it has been determined under the provisions of § 11–4.5202–4(b) that it is necessary to negotiate exclusively with the submitter, the initiating technical office shall submit with the procurement request its recommendation for single source procurement. This justification shall be in writing prepared as a recommendation of the chief of the cognizant technical division and will be contained in a separate document entitled "Justification for Acceptance of Unsolicited Proposal" (see § 11–4.5202–4(b)). Approval of justification shall be made by Chief, Procurement Branch.

Dated: September 8, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 67–10827; Filed, Sept. 14, 1967; 8:47 a.m.]

[CGFR 67–45]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Pursuant to authority vested in me as Commandant, U.S. Coast Guard, by 49 CFR 1.4:

PART 11–1—GENERAL

Subpart 11–1.3—General Policies

§ 11–1.313 [Amended]

1. Section 11–1.313 *Records of contract action* is amended by changing in paragraph (b)(4) the reference from "§ 11–1.750" to "§ 11–1.706."

2. Section 11–1.315 *Use of liquidated damages provisions in procurement contracts* is amended by adding § 11–1.315–3, reading as follows:

§ 11–1.315–3 Contract provisions.

When a liquidated damages provision is to be used in a contract which is for alteration, or repair to vessels and which includes CG Form 2557B, General Provisions (Repair and Alteration Contracts—Vessels), the following provision shall be inserted in the invitation for bids and an appropriate rate(s) of liquidated damages (determined pursuant to §§ 1–1.315–2 of this title and 11–1.315) shall be stipulated:

LIQUIDATED DAMAGES

Article 14(f) of CG Form 2557B, General Provisions (Repair and Alteration Contracts—Vessels), is redesignated as Article 14(g) and the following is inserted as Article 14(f):

(f) If the contractor fails to complete the performance of the contract within the time specified therein, or any extension thereof, the actual damage to the Government for the delay will be difficult or impossible to determine. Therefore in lieu of actual damages the contractor shall pay to the Government as fixed, agreed, and liquidated damages for each calendar day of delay the amount, if any, set forth in the contract (prorated to the nearest hour for fractional days). Alternatively, the Government may terminate the contract in whole or in part as provided in paragraph (a) of this clause, and in that event the contractor shall be liable, in addition to the excess costs provided in paragraph (c) above, for such liquidated damages accruing until such time as the Government may reasonably obtain completion of the work described in the contract. The contractor shall not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of the contractor, as defined in paragraph (b) above, and in such event, subject to the provisions of clause 18 of this contract, the contracting officer shall ascertain the facts and the extent of the delay and shall extend the time for performance when in his judgment the findings of fact justify an extension.

PART 11–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 11–2.2—Solicitation of Bids

§ 11–2.201–50 [Amended]

1. Section 11–2.201–50 *Construction contracts* is amended by changing in the first sentence of paragraph (a) the reference from "§ 11–7.602–4" to "§ 11–7.650–26."

§ 11–2.201–51 [Amended]

2. Section 11–2.201–51 *Ship repair, alteration, or conversion contracts* is amended by changing in the first and third sentence of paragraph (c) and in the first sentence of paragraph (d) the references from "11–7.5001–4" to "11–7.5001–10."

PART 11–3—PROCUREMENT BY NEGOTIATION

Subpart 11–3.2—Circumstances Permitting Negotiation

1. Section 11–3.203(b) is revised to read as follows:

§ 11–3.203 Purchases not in excess of $2,500.

* * * * *

(b) *Procedure.* Purchases and contracts aggregating not more than $2,500 shall be made in accordance with Subpart 1–3.6 of this title as implemented by Subpart 11–3.6 of this part.

§ 11–3.204 [Amended]

2. Section 11–3.204 *Personal and professional services* is amended by changing in paragraph (b) the reference from "§ 1–3.204(b)(1)" to "§ 1–3.204(b)."

Subpart 11–3.6—Small Purchases

§ 11–3.600 [Amended]

1. Section 11–3.600 *Scope of subpart* is amended by changing in the first sentence the word "part" to "subpart".

2. Section 11–3.650–8(b) is amended by combining the first two sentences in the introductory text into one sentence to read as follows:

§ 11–3.650–8 Instructions for entries on DD Form 1155 and Standard Form 36.

* * * * *

(b) The right hand columns designate by alpha code the activities responsible for completing certain blocks on the form. * * *

* * * * *

PART 11–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 11–4.51—Procurement of Mortuary Services

1. Section 11–4.5105–34 is revised to read as follows:

§ 11–4.5105–34 Gratuities.

Insert the clause set forth in 32 CFR 7.104–16 (ASPR).

PART 11–7—CONTRACT CLAUSES

Subpart 11–7.1—Fixed-Price Supply Contracts

1. Section 11–7.150–6 is revised to read as follows:

§ 11–7.150–6 Gratuities.

Insert the clause set forth in 32 CFR 7.104–16 (ASPR).

§ 11–7.150–14 [Amended]

2. Section 11–7.150–14 *Government-furnished property* is amended by changing the reference "32 CFR, Part 13 (ASPR)" to "32 CFR 13.702 (ASPR)."

Subpart 11–7.6—Fixed-Price Construction Contracts

§ 11–7.650–5 [Amended]

3. Section 11–7.650–5 *Index for specifications* is amended by changing in the second sentence of the clause the word "if" to "is" so the phrase is changed from "completeness if not guaranteed" to "completeness is not guaranteed."

PART 11–10—BONDS AND INSURANCE

1. New Subpart 11–10.3 is added, reading as follows:

Subpart 11–10.3—Insurance—General

§ 11–10.305 Procedures to be followed in the event of loss or damage to Government property.

Upon the happening of loss or of damage to any Government property, concerning which the contractor is relieved of responsibility by contract provision, the procedure shall be as prescribed in subparagraph (g)(3) of the clause in 32 CFR 13.702 or 13.703 (ASPR).

(14 U.S.C. 633, 10 U.S.C. Ch. 137)

PART 11–12—LABOR

Subpart 11–12.4—Labor Standards in Construction Contracts

§ 11–12.404–8 [Deleted]

1. Section 11–12.404–8 is deleted from the Code of Federal Regulations in its entirety. Publication of this material in Chapter 11, Title 41 CFR is not required.

PART 11–16—PROCUREMENT FORMS

Subpart 11–16.2—Forms for Negotiated Supply Contracts

1. In § 11–16.202–52, paragraph (b)(3) and (5) is revised to read as follows:

§ 11–16.202–52 Amendment of solicitation/modification of contract (Standard Form 30).

* * * * *

(b) * * *

(3) Any other unilateral contract modification, except notices of termination (see § 1–8.801 of this title), issued pursuant to a contract provision authorizing such modification without the consent of the contractor.

* * * * *

(5) Supplemental agreements.

* * * * *

Subpart 11–16.4—Forms for Advertised Construction Contracts

§ 11–16.404 [Amended]

1. Section 11–16.404 *Terms, conditions, and provisions* is amended by changing in the clause "Alterations" in paragraph (d) the phrase from "the "Secretary" of the Treasury" to "the Secretary of Transportation."

Subpart 11–16.8—Miscellaneous Forms

§ 11–16.804 [Amended]

1. Section 11–16.804 *Report on procurement by civilian executive agencies* is amended by changing in the last sentence of paragraph (b) the phrase from "the Treasury Department" to "Department of Transportation."

§ 11–16.851 [Amended]

2. Section 11–16.851 *Security requirements check list (DD Form 254)* is amended by changing in the first and second sentence the references from "11–7.101–56" to "11–7.150–15."

3. Section 11–16.853 is added, reading as follows:

§ 11–16.853 Royalty report (foreign and domestic) (DD Form 783).

DD Form 783 is approved for use by contractors in making reports of royalty information as required by § 11–7.150–11 of this chapter. While it is preferred that contractors use DD Form 783 (and contractor reproduction of the form is authorized), the contractor may submit the royalty information in such other form as is considered desirable by the contractor, provided such other form contains all of the information required by § 11–7.150–11 of this chapter.

PART 11–50—CONTRACTS GENERAL

Subpart 11–50.1—Administrative Matters

1. In § 11–50.102–1, paragraph (f) is revised to read as follows:

§ 11–50.102–1 Contracts requiring renumbering.

* * * * *

(f) All other written agreements involving payment or receipt of funds not covered by Subpart 11–3.6 of this chapter.

PART 11–75—PROCUREMENT AUTHORITY AND DELEGATIONS

Subpart 11–75.1—Procurement Authority and Responsibility

§ 11–75.101 [Amended]

1. Section 11–75.101 *Procurement responsibility* is amended by changing in the first line of paragraph (a) the phrase from "The Secretary of the Treasury" to "The Secretary of the Department of Transportation" and by changing in the third and fourth line from the bottom of paragraph (c) the phrase from "or by procurement within the Government as hereinafter provided" to "or by acquisition within the Government as hereinafter provided".

2. In § 11–75.102–1 paragraph (d) is added, reading as follows:

§ 11–75.102–1 Contracting officers.

* * * * *

(d) Contracting officers will request, from the official(s) responsible for initiating a requirement, a statement of justification to substantiate in the contract file instances where requirements are forwarded to the contracting officer in insufficient time to preclude delinquency in delivery or uneconomical prices.

3. Section 11–75.102–2 is revised to read as follows:

§ 11–75.102–2 Other personnel.

Personnel, other than the contracting officer, who determine type, quality, quantity, and delivery requirements for items to be purchased:

(a) Can influence the degree of competition obtainable as well as having a material effect upon price and

(b) Must finalize requirements in sufficient time to preclude causing delinquency in delivery or uneconomical prices, by insuring that there is:

(1) A reasonable period for preparation of procurement documents; or

(2) A reasonable period for preparation of offerors submission; or

(3) Sufficient time for contract negotiation and preparation; or

(4) Adequate delivery time.

Subpart 11–75.2—Designation of Contracting Officers

1. In § 11–75.201 the introductory text of paragraph (d) is revised to read as follows:

§ 11–75.201 Designation of contracting officers.

* * * * *

(d) *Limited purchasing authority.* Those contracting officers specifically designated as such in paragraph (c) of this section may authorize qualified Coast Guard personnel of not less than 21 years of age within their supply support area to act as contracting officers with limited purchasing authority and to effect small purchases from commercial sources as set forth below:

* * * * *

(14 U.S.C. 633, 10 U.S.C. Ch. 137)

Dated: September 8, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 67–10628; Filed, Sept. 14, 1967; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[No. 32153]

PART 110—UNIFORM SYSTEM OF ACCOUNTS FOR RAILROAD COMPANIES

Miscellaneous Amendments

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 1st day of September 1967.

On June 10, 1967, notice of proposed rule making regarding proposed amendments of the Uniform System of Accounts for Railroad Companies, pertaining to the accounting treatment of extraordinary and prior period items in the determination of net income, was published in the FEDERAL REGISTER (32 F.R. 8381). After consideration of all such relevant matter as was submitted by interested persons, the amendments as so proposed are hereby adopted.

It is ordered, That the amendments to Part 110 as proposed are adopted subject to the correction of the second sentence of paragraph (d) of account 80 to read: "This includes application for disposition of a balance in this account attributable to reduction of capitalization in a reorganization."

It is further ordered, That these amendments are effective January 1, 1967.

And it is further ordered, That service of this order shall be made on all carriers by railroad which are affected hereby and notice thereto shall be given the general public by depositing a copy of this order in the Office of the Secretary of the Commission at Washington, D.C., and by filing the order with the Director, Office of the Federal Register.

(Sec. 20, Stat. 386, as amended, 49 U.S.C. 20)

By the Commission, Division 2.

[SEAL] H. NEIL GARSON,
Secretary.

I. INSTRUCTIONS AMENDED

Item No. 1. Instruction "1–2 Classification of accounts" is amended by revising the second sentence of paragraph (a) and adding a third sentence to this paragraph, and by revision of paragraph (d) as follows:

(a) * * * Separate accounts are prescribed for investment in property not used in transportation operations and for other investments and income therefrom; for extraordinary and prior period items, including applicable income taxes; and for assets, liabilities and capital includible in the balance sheet statement. Retained income accounts form the connecting link between the income account and the equity section of the balance sheet. They are provided to record the transfer of net income or loss for the year; certain capital transactions; and, when authorized by the Commission, other items.

* * * * *

(d) All items of profit and loss recognized during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments, from company bonds reacquired, from change in application

of accounting principles, and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval of the Commission.

Adjustments, constituting items of a character typical of customary business activities or representing corrections or refinements resulting from the natural use of estimates inherent in the accounting process, shall not be considered extraordinary or prior period items regardless of size.

In determining materiality, items of a similar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item shall exceed 1 percent of total operating revenues and 10 percent of ordinary income for the year.

Item No. 2. The last sentence of instruction "1–7 Delayed items" is amended as follows:

* * * See instruction 1–2(d) for instructions covering delayed items of a nonrecurring nature.

Item No. 3. Instruction "2–8 Additions to and retirements of units of property" is amended by revising paragraph (c) as follows:

(c) When property (other than a minor item constituting repairs) classified as other than depreciable property is retired, the cost thereof shall be cleared from the property account and the service value shall be charged to account 267 "Retirements—Road", except that the service value, when material in amount, in connection with the retirement of a branch line, segment of track, or other important facility constituting a permanent reduction in plant may be recorded in account 570 "Extraordinary items", when authorized by the Commission. See instruction 1–2(d).

Item No. 4. Instruction "2–19 Distribution of cost of property to primary accounts" is amended by revising the last sentence in paragraph (d) as follows:

* * * The amount so included in account 80 shall be cleared subsequently in accordance with provisions in the text of that account.

Item No. 5. Instruction "5–4 Leased property-depreciation" is amended by revising the last sentence in paragraph (a) as follows:

* * * The necessary adjustments of the difference between the balance thus accrued in that account and the actual amount of settlement shall be made appropriately through accounts 519 "Miscellaneous income", or 551 "Miscellaneous income charges", at the time settlement for depreciation on the property is made with the lessor.

Item No. 6. Instruction "6–1 Current assets" is amended by revising the fourth sentence as follows:

* * * Items of current character but of doubtful value previously credited to operating revenue, operating expense or other income accounts shall be written down or written off by charging those accounts, as appropriate. * * *

Item No. 7. Instruction "6–2 Recorded value of securities owned" is amended by revising the penultimate sentence as follows:

* * * Losses in value of securities written off shall be charged to account 551 "Miscellaneous income charges" or to account 570 "Extraordinary items", as appropriate. * * *

Item No. 8. Instruction "6–3 Discount, expense and premium on debt" is amended by revising the first sentence of paragraph (c) as follows:

(c) When any funded debt which has been actually issued to bona fide holders for value is reacquired by the accounting company, that proportion of the balance remaining in accounts containing discount, expense and premium on funded debt for the subclass of the security reacquired applicable to the portion reacquired shall be credited or charged thereto, as may be appropriate, and concurrently charged or credited to account 519 "Miscellaneous income", account 551, "Miscellaneous income charges"; or to account 570 "Extraordinary items", as may be appropriate, in accordance with the text of these accounts. * * *

II. TEXTS OF PROPERTY ACCOUNTS AMENDED AND REVISED

Item No. 1—Account 1, Engineering. "Note B" to the text of this account is amended as follows:

NOTE B: Expenditures for tentative or preliminary surveys shall be carried in a suspense account until it is determined whether or not to continue the work. If the project is continued, expenditures for all surveys in connection therewith shall then be transferred to this account, and, if abandoned, to appropriate income accounts.

Item No. 2—Account 80, Other Elements of Investment. The text of this account is revised to read as follows:

80 Other elements of investment.

(a) This account shall include amounts resulting from adjustment of the primary property accounts to conform with cost of property in the valuation records pursuant to instruction 2–19 of these rules; also similar adjustments attributable to reorganizations pursuant to instruction 2–15. The amount in this account shall be cleared on a consistent basis as property is retired from service or otherwise in accordance with the rules in paragraphs (b), (c), and (d) of this account. Any material amount in this account assignable to property previously retired from service shall be cleared immediately.

(b) When property is retired from service, an equitable portion of the balance in this account assignable to such property shall be cleared when the retirement entry is made. The amount so cleared, when a debit, shall be charged to account 551 "Miscellaneous income charges", or, when a credit, shall be recorded in account 519 "Miscellaneous income"; or such amount shall be included in account 570 "Extraordinary items", provided such amount, when combined with the related retirement loss, is sufficiently large to constitute an extraordinary item, pursuant to instruction 1–2 (d). The exception to this general rule with respect to a credit balance assignable to property retired is that when property classified as depreciable is retired from service and the balance in the depreciation reserve for such property is materially deficient, because of sudden retirement or other unusual cause, the portion of a credit balance cleared for the retirement, equal to the deficiency in the reserve, shall be applied to reduce the amount of loss otherwise chargeable to the depreciation reserve.

(c) A carrier may apply to the Commission for authority to clear the entire balance from this account immediately or amortize the balance over a short period of time by appropriate inclusion in account 616 "Other Debits to Retained Income", or account 606 "Other Credits to Retained Income". Any amount so authorized or directed by the Commission to be cleared and written off to retained income shall be in lieu of amounts includible in accounts indicate in paragraph (b).

(d) Other plans for clearance, disposition, or classification of a balance in this account attributable to reduction of accounting principles may be submitted to the Commission with suitable details for consideration. This includes application for disposition of a balance in this account attributable to reduction of capitalization in a reorganization. An accounting procedure so applied for shall become effective only after Commission approval. Each carrier shall maintain a record of items initially included in and cleared later from this account and the basis used in computing such items.

NOTE: The amounts attributable to past mergers, consolidations and purchases of property included in this account 80 shall be merged with the adjustment made pursuant to paragraph (a) of this text.

III. TEXTS OF OPERATING EXPENSE ACCOUNTS AMENDED

Item No. 1—Account 267, Retirements; Road. The text of this account is amended by revising paragraph (c) as follows:

(c) When the difference referred to in paragraph (b) of this account or the aggregate of all such differences for retirements is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 1–2(d), the amount shall be credited to account 570 "Extraordinary items".

Item No. 2—Account 330, Retirements; Equipment. The text of this account is amended by revising paragraph (b) as follows:

(b) When the difference referred to in paragraph (a) of this account or the aggregate of all such differences for retirements is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 1–2(d), the amount shall be credited to account 570 "Extraordinary items".

IV. TEXTS OF INCOME ACCOUNTS AMENDED

Item No. 1—Account 519, Miscellaneous Income. The text of this account is amended by revising paragraph (b) as follows:

(b) When the profit from sale of land, noncarrier property, or investment securities other than temporary cash investments, or from the reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 1–2(d), such profit shall be credited to account 570 "Extraordinary items".

Item No. 2—Account 532, Railway Tax Accruals. The text of this account is amended by revising paragraphs (c) and (d) as follows:

(c) Accruals for Federal income taxes applicable to ordinary income shall be included in this account. See texts of account 590 "Federal income taxes on extraordinary and prior period items", account 606 "Other credits to retained income", and account 616 "Other debits to retained income", for recording other income tax consequences.

Details pertaining to the tax consequences of other unusual and significant items, and also cases where tax consequences are disproportionate to related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

(d) Federal income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs or, if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item, pursuant to instruction 1–2(d), it shall be included in account 580 "Prior period items".

Item No. 3—Account 551, Miscellaneous Income Charges. The text of this account is amended by revising paragraph (b) as follows:

(b) When the loss on the sale of land, noncarrier property, or investment securities other than temporary cash investments, or on the reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 1–2(d), such loss shall be included in account 570 "Extraordinary items".

Item No. 4. The system of accounts, following the text of account 551 "Miscellaneous income charges", is amended by adding the following caption and account numbers, titles, and texts:

EXTRAORDINARY AND PRIOR PERIOD ITEMS

570 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with the text of instruction 1–2(d), upon approval by the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of land used for transportation purposes, and of noncarrier property.

Net gain or loss on sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment of value.

Net gain or loss on reacquisition of company bonds.

Loss on sale or retirement of transportation property, for which depreciation reserve has not been provided.

Changes in application of accounting principles.

(b) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

(c) Federal income tax consequences of charges and credits to this account shall be recorded in account 590 "Federal income taxes on extraordinary and prior period items".

580 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of instruction 1–2(d), upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds or assessments of Federal income taxes of prior years.

Unusual adjustments of reserves of prior years determined to be excessive or deficient.

Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

(c) Federal income tax consequences of charges and credits to this account shall be recorded in account 590 "Federal income taxes on extraordinary and prior period items".

590 Federal income taxes on extraordinary and prior period items.

This account shall include the estimated Federal income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary, and are recorded in accounts 570 "Extraordinary items" and 580 "Prior period items".

V. TEXTS OF RETAINED INCOME ACCOUNTS DELETED AND AMENDED

Item No. 1. The following accounts in the section covering "Retained Income Accounts", are deleted by cancelling the numbers, titles, texts thereof and notes thereto.

603 Profit from Sale of Property.
604 Profit from Sale of Investment Securities.
605 Profit from Company Bonds Reacquired.
613 Loss on Sale or Retirement of Property.
614 Loss on Sale of Investment Securities.
615 Loss on Company Bonds Reacquired.
617 Federal Income Taxes Assigned to Retained Income.

Item No. 2—Account 606, Other Credits to Retained Income. This account is amended by revising the text as follows:

606 Other credits to retained income.

This account shall include other credit adjustments, net of assigned Federal income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

Item No. 3—Account 616, Other Debits to Retained Income. This account is amended by revising the text as follows:

616 Other debits to retained income.

(a) This account shall include losses from resale of reacquired capital stock, and charges which reduce or writeoff discount on capital stock issued by the company, but only to the extent that such charges exceed credit balances in capital surplus for shares reacquired. See instruction 6–4.

(b) This account shall also include other debit adjustments, net of assigned Federal income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

VI. TEXTS OF BALANCE SHEET ACCOUNTS AMENDED

Item No. 1—Account 723, Reserve for Adjustment of Investment in Securities—Cr. This account is amended by revising the text as follows:

723 Reserve for Adjustment of Investment in Securities—Cr.

(a) This account shall include the total of the balances in such reserves as are maintained by the accounting company for the purpose of providing for reductions in the value of securities owned and recorded in accounts 721 "Investments in affiliated companies", or 722 "Other investments". Corresponding charges shall be made to account 551 "Miscellaneous income charges", or account 570 "Extraordinary items", as appropriate.

(b) If reserves are maintained in provision for anticipated losses in specific securities, when the related assets are written down or written off, or are sold or otherwise disposed of at a loss, the reduction in the book value or the losses sustained shall be charged to this account to the extent of the credit balance in the account applicable to the particular securities involved, and the remainder, if any, shall be charged to account 551 "Miscellaneous income charges", or to account 570 "Extraordinary items", as appropriate. In case a general reserve for losses in unspecified security values is maintained, all such losses resulting from write-downs, write-offs, etc., shall be charged to this account to the extent of the total credit balance in the account, and the remainder, if any, shall be charged to account 551 "Miscellaneous income charges", or to account 570 "Extraordinary items", as appropriate.

Item No. 2—Account 735, Accrued Depreciation; Road and Equipment. The text of this account is amended by re-

vising paragraph (a) as follows:

(a) This account shall be credited with amounts concurrently charged to operating expenses or other authorized accounts to cover the loss in service value of depreciable road and equipment property. It shall also include adjustments which the Commission may authorize the accounting company to make with respect to past accruals of depreciation.

VII. FORM OF INCOME STATEMENT AMENDED

560 Form of Income Statement is amended by making the following changes:

Item No. 1. The caption number is changed from "560" to "599."

Item No. 2. The caption following the opening paragraph, "Operating Income", is changed to "Ordinary Items".

Item No. 3. All line items after the center caption, "Other Deductions", are canceled and the following are added:

546	Interest on funded debt:		
	(c) Contingent interest	------	------
	Ordinary income	------	------

Extraordinary and Prior Period Items

570	Extraordinary items (net)	------	------
580	Prior period items (net)	------	------
590	Federal income taxes on extraordinary and prior period items	------	------
	Total extraordinary and prior period items	------	------
	Net income transferred to Retained Income—Unappropriated	------	------

VIII. MISCELLANEOUS AMENDMENTS

Item No. 1. The List of Instructions and Accounts is amended by making the following changes:

a. Directly below "Income Accounts", the caption "Ordinary Items" is added.

b. Below the line item, "551 Miscellaneous income charges", the following caption and line items are added:

EXTRAORDINARY AND PRIOR PERIOD ITEMS

570 Extraordinary items (net).
580 Prior period items (net).
590 Federal income taxes on extraordinary and prior period items.

c. Line item number "560" is changed to "599."

d. The following Retained Income Accounts items are deleted:

603 Profit from sale of property.
604 Profit from sale of investment securities.
605 Profit from company bonds reacquired.
613 Loss on sale or retirement of property.
614 Loss on sale of investment securities.
615 Loss on company bonds reacquired.
617 Federal income taxes assigned to retained income.

Item No. 2. In the system of account, above the number, title and text of account "501 Railway Operating Revenues" and directly below the caption "Income Accounts", the caption "Ordinary Items" is added.

[F.R. Doc. 67-10816; Filed, Sept. 14, 1967; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-WE-58]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations which would alter the controlled airspace for Siskiyou County Airport, Montague, Calif.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

A new Standard Instrument Departure (SID) is being considered for Siskiyou County Airport that will require a control zone extension and additional 1,200-foot transition area north of the airport. In addition, a modification is being considered to the JAL TACAN Runway 35 approach, which will require a small amount of 1,200-foot transition area south of the airport.

The control zone extension north of the airport will provide controlled airspace protection for aircraft executing the Standard Instrument Departure procedure.

A minimum climb rate of 300 feet/NM is required for the SID, and the 1,200-foot transition area north of the airport will provide controlled airspace to the base o fthe 7,500-faat MSL portion of the Klamath Falls transition area. The 1,200-foot transition area south of the airport will provide controlled airspace for the modified JAL approach during descent below the base of the continental control area.

In consideration of the foregoing, the FAA proposes the following airspace actions:

In § 71.171 (32 F.R. 2118) the Montague, Calif., control zone is amended to read as follows:

MONTAGUE, CALIF.

Within a 5-mile radius of Siskiyou County Airport (latitude 41°46'55" N., longitude 122°28'00" W.); within 2 miles each side of the Siskiyou TACAN 194° radial, extending from the 5-mile radius zone to 7 miles south of the TACAN; and within 2 miles each side of the Siskiyou TACAN 014° radial, extending from the 5-mile radius zone to 6.5 miles north of the TACAN, excluding the airspace within a 1-mile radius of Montague-Yreka Airport (latitude 41°43'50" N., longitude 122°32'45" W.).

In § 71.181 (32 F.R. 6022) the Montague, Calif., transition area is amended to read as follows:

MONTAGUE, CALIF.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Siskiyou County Airport (latitude 41°46'-55" N., longitude 122°28'00" W.); that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 42°04'00" N., on the east by an arc of a 40-mile radius circle centered on the Klamath Falls, Oreg., VORTAC and an arc of a 14-mile radius circle centered on the Siskiyou County Airport, on the southeast by a line extending from latitude 41°41'00" N., longitude 122°20'00" W., to latitude 41°-25'00" N., longitude 122°20'00" W., on the south by latitude 41°25'00" N., and on the west by the east edge of V-23; within 5 miles each side of the Siskiyou TACAN 014° radial, extending from the 7-mile radius area to 19 miles north of the TACAN, and within 5 miles east and 6 miles west of the Siskiyou TACAN 194° radial, extending from the TACAN to 29 miles south of the TACAN.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on September 7, 1967.

A. E. HORNING,
Acting Director, Western Region.

[F.R. Doc. 67-10844; Filed, Sept. 14, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-96]

FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a VOR airway between Eau Claire, Wis., and Duluth, Minn., with a floor established at 1,200 feet AGL. This action would provide controlled airspace to protect scheduled air carrier operations between Eau Claire and Duluth.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

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

Issued in Washington, D.C., on September 8, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-10845; Filed, Sept. 14, 1967; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SW-45]

FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate V-94 from Newman, Tex., 1,200 feet AGL direct to Salt Flat, Tex. The present alignment of this airway segment via the intersection of Newman 091° and Salt Flat 312° True radials would be redesignated as V-94 north alternate. Realignment of V-94 would provide a more expeditious route between Newman and Salt Flat.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should idetnify the airspace docket number and be submitted in triplicate to the

Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

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

Issued in Washington, D.C., on September 3, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-10846; Filed, Sept. 14, 1967; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-WE-60]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the description of the Klamath Falls, Oreg., transition area.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

The current ADF-2 and ILS RWY-32 instrument approach procedures for Kingsley Field do not incorporate a procedure turn at the RBN. However, the FAA is considering modifying these procedures to authorize a procedure turn within 10 NM of the RBN at 7,500 feet MSL. Since the procedure turn altitude will be less than 1,500 feet above the surface, additional 700-foot transition area will be required to provide controlled airspace protection for aircraft executing this portion of the approach procedures.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (32 F.R. 2208) the Klamath Falls transition area, as amended in 32 F.R. 50, is further amended by deleting, "That airspace extending upward from 700 feet above the surface within a 15-mile radius of Klamath Falls VORTAC; * * *", and substituting therefor, "That airspace extending upward from 700 feet above the surface within a 15-mile radius of the Klamath Falls VORTAC and within 5 miles east and 8 miles west of the Klamath Falls ILS localizer south course extending from the 15-mile radius area to 12 miles south of the RBN; * * *."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on September 5, 1967.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 67-10847; Filed, Sept. 14, 1967; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-EA-74]

VOR FEDERAL AIRWAY

Proposed Extension

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal airway No. 232 from Sandusky, Ohio, with a 1,200 foot AGL floor to the intersection of the Sandusky 296° T (299° M) and Waterville, Ohio, 013° T (015° M) radials.

This proposed airway segment would be utilized to facilitate arrival and departure traffic at the Toledo, Ohio Airport.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

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

Issued in Washington, D.C., on September 7, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-10848; Filed, Sept. 14, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 223]

[Docket No. 18992]

TARIFFS OF AIR CARRIERS

Free and Reduced-Rate Transportation

SEPTEMBER 11, 1967.

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 223 of the regulations to grant a blanket exemption from section 403 of the Act for air carriers to provide free or reduced-rate transportation for travel agents on domestic group familiarization tours. The principal features of the proposed amendments are explained in the attached Explanatory Statement, and the text of the proposed amendments is also attached. The amendments are proposed under authority of sections 204, 403, and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 758, 771, as amended; 49 U.S.C. 1324, 1373, 1386).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before October 16, 1967, will be considered by the Board before taking action. Copies of communications will be available for examination by interested persons upon receipt in the Docket Section of the Board, Room 710 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. In 1963 the Board adopted a policy permitting free interstate and overseas air transportation to travel agents on group orientation tours conducted by air carriers. The Board's purpose was to enable travel

agents to become personally familiar with different geographical areas of the United States and thereby promote tourist travel within the United States. In order to qualify for exemption to provide this free transportation, an air carrier had to organize a group of travel agents and set up a tour itinerary. The carrier then filed an application setting forth the details of its proposal and requesting an exemption to furnish free or reduced-rate transportation. Such applications have been granted where the proposed tour itinerary demonstrated that the trip was an orientation tour of the points visited and not a pleasure trip. Since this program has been in effect, the various carriers have provided free transportation to approximately 17,000 travel agents on group orientation tours of this nature.

By Order E–24182, dated September 14, 1966, the Board approved an ATC agreement which permitted the carriers to grant a 75-percent discount to travel agents for individual travel encompassing basically interstate and overseas air transportation. The Board decided also to continue to permit the free group orientation tour programs. From the middle of September 1966 to the middle of June 1967, 106 exemptions were granted to 21 different carriers authorizing free transportation in 7039 instances.[1] All the trunklines utilized the free familiarization program, although the extent to which they did so varied substantially. In addition, five local-service carriers, one helicopter operator, several Alaskan carriers, and Trans Caribbean received exemptions under this program.[2] From this information it is apparent that the Board's domestic familiarization program is being used extensively, and since these trips are carrier-sponsored there is a strong inference that the carriers have found them useful as a means of promoting domestic travel.

In addition to the domestic familiarization program, exemptions also have been granted at a 75-percent discount for group familiarization trips involving Canadian points, and for travel to attend training sessions on carrier tariffs, ticketing, and reservation services. Our proposal to issue a blanket exemption authorizing free or reduced-rate transportation for groups of travel agents under the Board's domestic familiarization program would not include these types of trips, since comparatively few exemption requests of these types have been made, and the criteria for granting such exemptions have not been sufficiently well established.

Since the domestic familiarization policy has been in effect, the criteria for exemption have evolved on a case-by-case basis. In order to provide free transportation for group tours, the familiarization program must be air-carrier-sponsored and organized, it must be restricted geographically to points within the United States (including Hawaii, Alaska, and Puerto Rico), and the schedule of activities must utilize substantially all of the normal working hours of each day. The program may not include familiarization with foreign points, or be designed primarily to promote the carrier rather than travel to the points involved or to acquaint the travel agent with a carrier's operations or facilities as distinguished from familiarization with accommodations, attractions, and facilities in the location or areas involved. In addition to domestic familiarization, the scheduled activities may include a trip between domestic points by surface carriers for orientation with an area or familiarization designed to promote combined air/sea tours. However, in any case where transportation by surface is provided it must be part of an overall program of familiarization with domestic points. Viewed in its entirety, each carrier program must clearly demonstrate that it is not a pleasure trip or designed to entertain and ingratiate the travel agents but is a working trip devoted to assisting the travel agents in promoting domestic travel.

We believe that the standards for administering the travel agents' domestic familiarization program are sufficiently established to justify the issuance of a regulation granting exemption where the standards are met and that a proceeding to do so will afford interested persons an opportunity to state their views on this subject.

In the past each order granting an exemption has required the carrier to file with the Docket Section a list of the names of the travel agents who participated, the names and addresses of the agencies they represented, and the routing over which they traveled. The proposed rule would require the filing of a notice 20 days before commencement of the tour setting forth the number of agents participating, the routings over which the agents will travel, a full description of ground arrangements, and the program of activities scheduled. A further notice would be required to be filed 30 days after completion of the tour stating the names and addresses of the agents and a statement of compliance with the standards set forth in the rule.

It is proposed to amend Part 223 of the Economic Regulations (14 CFR Part 223) as follows:

1. Add new paragraphs (f) and (g) to § 223.1, as follows:

§ 223.1 Definitions.

* * * * *

(f) "Domestic group familiarization tour" means a tour organized and controlled by one or more air carriers for the purpose of promoting the sale of air transportation by familiarizing a group of travel agents with tourist attractions, accommodations, and recreational facilities in a particular area within the 50 States or Puerto Rico.

(g) "Travel agent" means a person (1) who is employed full time in a travel agency, (2) who has been in the continuous employment of such agency at least 6 months, and (3) who devotes his employment time in the agency primarily to the promotion and sale of transportation and related services.

2. Add a new paragraph (f) to § 223.2, as follows:

§ 223.2 Persons to whom free and reduced-rate transportation may be furnished.

* * * * *

(f) Any air carrier authorized to engage in interstate or overseas air transportation of passengers is hereby exempted from section 403 of the Act to the extent necessary to enable it to provide free or reduced-rate transportation to travel agents on domestic group familiarization tours between points on its certificated routes within the 50 States and Puerto Rico, subject to the following conditions:

(1) The tour shall provide a specific group orientation program, shall include familiarization meetings with local tourist-promotion agencies such as chambers of commerce or tourist bureaus, and may include sightseeing tours of the area and trips by surface transportation as part of the overall familiarization tour of the area.

(2) The tour shall be limited to a minimum of 2 days in addition to time spent in air transportation and a maximum of 7 days' total time, and no more than 4 days shall be spent at any point.

(3) No stopovers shall be permitted except as part of the overall group familiarization tour.

(4) No part of the tour shall consist of transportation by any means to be directed toward promoting travel to, or in any manner include or provide for visits to points outside the 50 States or Puerto Rico.

(5) The group shall consist of not less than 15 travel agents.

(6) Substantially all of the group's time during normal working hours shall be devoted to the basic familiarization program, and no more than 10 percent of the group's time may be devoted to familiarization with the carrier's facilities in the area.

(7) The carrier shall file with the Board's Bureau of Economics 20 days before commencement of the tour a notice setting forth the number of travel agents participating, the routings over which the agents will travel, a full description of ground arrangements, and the program of activities scheduled.

(8) The carrier shall file with the Board's Bureau of Economics 30 days after completion of the tour a notice setting forth the names of the travel agents who participated in the tour and the names and addresses of the agencies they represent, and a statement that all the conditions of § 223.1(f) and this paragraph have been complied with, that the tour was conducted in accordance with the information contained in the notice filed pursuant to subparagraph (7) of this paragraph, and that each travel agent participating in the tour met the requirements of § 223.1(g).

[F.R. Doc. 67–10862; Filed, Sept. 14, 1967; 8:50 a.m.]

[1] In a few instances the transportation was provided jointly by two or more carriers. Thus, the number of travel agents involved was somewhat less than 7039.

[2] In most cases these carriers participated jointly in programs with the trunk carriers.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 89, 91, 93]

[Docket No. 17703; FCC 67-1018]

TERTIARY FREQUENCIES

Notice of Proposed Rule Making

In the matter of amendment of the rules in Parts 2, 89, 91, and 93 concerning the use of "tertiary", or 15 kc/s channels, in the 150–162 Mc/s band, Docket No. 17703, RM–525, RM–811, RM–867; amendment of Part 89 to designate frequency 153.740 Mc/s as available to the Local Government Radio Service.

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

2. The National Committee for Utilities Radio, the Yellow Cab Company of California, and the American Automobile Association, have petitioned the Commission to make available for assignment on a regular basis in the Power, Taxicab, and Automobile Emergency Radio Services, respectively, the 15 kc/s splits, known as "tertiary" frequencies, in the 150–162 Mc/s band that have been available for assignment on a developmental basis. For the reasons given below these petitions are granted and our proposal herein covers all services governed by Parts 91 and 93 of the Commission's rules except for the Motor Carrier, Relay Press, Motion Picture, Industrial Radiolocation, and Business Radio Services.

3. The technical standards adopted in the split channel proceedings in Dockets 11253 and 12295 provide for same-area adjacent channel operation with 30 kc/s separation in the 150–162 Mc/s band and make it technically possible to operate with offset, or less than 30 kc/s separation, such as 15 kc/s, if there is adequate geographic spacing between stations on adjacent frequencies. Thus, the 15 kc/s tertiary frequency channels in these bands have been available to the Railroad Radio Service since 1958, to the Public Safety Radio Service since 1963, and to most of the remainder of the radio services governed by Parts 91 and 93 of the Commission's rules on a developmental basis since 1958. A substantial number of land mobile systems have been authorized with 15 kc/s separation and experience with these systems indicates the possibility of increased efficiency of utilization of the spectrum in the 150–162 Mc/s band based on engineering considerations and care in making assignments.

4. Therefore, we propose to make these frequencies available for assignment on a regular basis in the remaining Land Transportation and in the Industrial Radio Services, except as indicated in paragraph 2, above. The matter of assigning frequencies with 15 kc/s separation in the 150–162 Mc/s band in Business Radio Service is the subject of the proceedings in Docket 13930.

5. As noted above, operation in the 150 Mc/s region with 15 kc/s separation is possible only if the stations on adjacent channels are separated geographically. This has been accomplished in large measure by the respective frequency coordinating committees. Existing rules in Parts 89, 91, and 93 prescribe the coordination requirements. Although not uniform, we do not propose to change them in this proceeding. However, the rules in all three parts require interservice coordination if the frequency applied for is 15 kc/s removed from a frequency allocated to a different radio service. To clarify responsibility for interservice coordination, we propose to require the committee representing the applicant's radio service to initiate coordination with all other committees involved and indicate to the applicant and to the Commission any unresolved objection to the assignment of the frequency it recommends.

6. It seems appropriate to prescribe a minimum geographic separation between stations operating on frequencies separated by 15 kc/s. Experience with developmental operations in the Industrial Radio Services indicates that separation between base stations must be on the order of 15 miles if interference to adjacent base station receivers is to be avoided. However, in the Public Safety and Land Transportation Radio Services, a number of systems appear to be providing satisfactory operation with less separation than 15 miles between base stations. Since the same technical standards apply in all of the land mobile radio services under Parts 89, 91, and 93 of our rules, a uniform requirement seems appropriate. Comment is invited as to the best method of insuring that an adequate geographic separation is maintained between stations using adjacent frequencies.

7. The attached appendices contain our specific proposal for allocating the tertiary frequencies. Generally, these frequencies would be made available to the same radio service to which the adjacent frequencies are allocated. Where the adjacent frequencies are shared by more than one service, the tertiaries would be shared on the same basis. In the few instances where a tertiary is between frequencies allocated to different radio services, it would be allocated to the service where the greater need seems to be. Two 25 kc/s chanels, 154.515 and 154.625 Mc/s would be allocated to the Business Radio Service; one for paging with a maximum plate power input limitation of 30 watts and one for regular two-way operation with a maximum plate power input of 180 watts. The freguency 153.740 Mc/s, heretofore unassigned, would be made available to the Local Government Radio Service.

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

9. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before October 18, 1967, and reply comments on or before October 30, 1967. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: September 6, 1967.

Released: September 8, 1967.

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

1. It is proposed to amend § 2.106, the Table of Frequency Allocations, in Column 7 with respect to the 154.46–156.25 Mc/s bands to read as follows:

Federal Communications Commission

Band (Mc/s)	Service	Class of station	Frequency (Mc/s)	Nature of services of stations
7	8	9	10	11
• • •	• • •	• • •	• • •	• • •
154.46–154.6375	LAND MOBILE.	Base. Land Mobile.		INDUSTRIAL.
154.6375–156.25	LAND MOBILE.	Base. Land Mobile.		PUBLIC SAFETY.

2. It is proposed that § 89.259(f) be amended by deleting from the tabulation of frequencies, entries beginning 72.00 to 76.00 and ending 153.755, and substituting the following:

Frequency or band	Class of stations(s)	Limitations
Mc/s		
72.00 to 76.00	Operational fixed	3
153.740	Mobile	
153.755	do	

3. It is proposed that § 91.254 be amended by:

Deleting from the tabulation of frequencies in paragraph (a), entries beginning 153.41 and ending 153.71, and substituting the following:

Frequency or band	Class of station(s)	Limitations
Mc/s		
153.410	Base or mobile	
153.425	do	25
153.440	do	11
153.455	do	25
153.470	do	
153.485	do	25
153.500	do	11
153.515	do	25
153.530	do	
153.545	do	25
153.560	do	11
153.575	do	25
153.590	do	
153.605	do	25
153.620	do	11
153.635	do	25
153.650	do	
153.665	do	25
153.680	do	11
153.695	do	
153.710	do	
153.725	do	

Deleting from the tabulation of frequencies, entries beginning 158.13 and ending 158.25, and substituting the following:

Frequency or band	Class of station(s)	Limitations
Mc/s		
158.130	Base or mobile	
158.145	do	24
158.160	do	12
158.175	do	24
158.190	do	
158.205	do	24
158.220	do	12
158.235	do	24
158.250	do	
158.265	do	24

Amending paragraph (b) by adding the following new subparagraphs:

(24) This frequency is shared with Forest Products and Petroleum Radio Services in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington.

(25) This frequency is shared with Forest Products and Petroleum Radio Services in the States of Arkansas, Louisiana, Oklahoma, and Texas.

4. It is proposed that § 91.304 be amended by:

Deleting from the tabulation of frequencies in paragraph (a), entries beginning 153.05 and ending 153.68, and substituting the following:

Frequency or band	Class of station(s)	Limitations
Mc/s		
153.035	Base or mobile	11
153.050	do	11
153.065	do	11
153.080	do	11
153.095	do	11
153.110	do	11
153.125	do	11
153.140	do	11
153.155	do	11
153.170	do	11
153.185	do	11
153.200	do	11
153.215	do	11
153.230	do	11
153.245	do	11
153.260	do	11
153.275	do	11
153.290	do	11
153.305	do	11
153.320	do	11
153.335	do	11
153.350	do	11
153.365	do	11
153.380	do	11
153.395	do	11
153.425	do	27
153.440	do	9, 10
153.455	do	27
153.485	do	27
153.500	do	9, 10
153.515	do	27
153.545	do	27
153.560	do	9, 10
153.575	do	27
153.605	do	27
153.620	do	9, 10
153.635	do	27
153.665	do	27
153.680	do	9, 10

Deleting from the table of frequencies, entries beginning 158.16 and ending 158.43, and substituting the following:

Frequency or band	Class of station(s)	Limitations
Mc/s		
158.145	Base or mobile	28
158.160	do	10, 15
158.175	do	28
158.205	do	28
158.220	do	10, 15
158.235	do	28
158.265	do	28
158.280	do	11
158.295	do	11
158.310	do	11
158.325	do	11
158.355	do	10
158.370	do	10
158.415	do	11
158.430	do	11

Amending paragraph (b) by adding the following new subparagraphs:

(27) This frequency is shared with Power and Forest Products Radio Services and is available only in the States of Arkansas, Louisiana, Oklahoma, and Texas.

(28) This frequency is shared with Power and Forest Products Radio Services and is available only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington.

5. It is proposed that § 91.354 be amended by:

Deleting from the tabulation of frequencies in paragraph (a), entries beginning 153.05 and ending 153.68, and substituting the following:

Frequency or band	Class of stations(s)	Limitations
Mc/s		
153.050	Base or mobile	13
153.065	do	13
153.080	do	13
153.095	do	13
153.110	do	13
153.125	do	13
153.140	do	13
153.155	do	13
153.170	do	13
153.185	do	13
153.200	do	13
153.215	do	13
153.230	do	13
153.245	do	13
153.260	do	13
153.275	do	13
153.290	do	13
153.305	do	13
153.320	do	13
153.335	do	13
153.350	do	13
153.365	do	13
153.380	do	13
153.395	do	13
153.425	do	27
153.440	do	9, 11
153.455	do	27
153.485	do	27
153.500	do	9, 11
153.515	do	27
153.545	do	27
153.560	do	9, 11
153.575	do	27
153.605	do	27
153.620	do	9, 11
153.635	do	27
153.665	do	27
153.680	do	9, 11

Deleting from the tabulation of frequencies, entries beginning 158.16 and ending 158.43, and substituting the following:

Frequency or band	Class of stations(s)	Limitations
Mc/s		
158.145	Base or mobile	28
158.160	do	11, 16
158.175	do	28
158.205	do	28
158.220	do	11, 16
158.235	do	28
158.265	do	28
158.280	do	13
158.295	do	13
158.310	do	11
158.325	do	13
158.355	do	11
158.370	do	11
158.415	do	13
158.430	do	13

Amending paragraph (b) by adding the following new subparagraphs:

(27) This frequency is shared with the Power and Petroleum Radio Services and is available only in the States of Arkansas, Louisiana, Oklahoma, and Texas.

(28) This frequency is shared with Power and Petroleum Radio Services and is available only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington.

6. It is proposed that § 91.504(a) be amended by:

Deleting from the tabulation of frequencies, entries beginning 151.535 and ending 151.595, and substituting the following:

Frequency or band	Class of station(s)	General reference	Limitations
Mc/s			
151.570	Base or mobile	General use	13
151.985	do	Permanent use	11
151.600	do	do	11, 13
151.615	do	do	11
151.630	do	do	11, 13
151.645	do	do	11
151.660	do	do	11, 13
151.675	do	do	11
151.690	do	do	11, 13
151.705	do	do	11
151.720	do	do	11, 13
151.735	do	do	11

Deleting from the tabulation of frequencies, entries beginning 152.87 and ending 153.02, and substituting the following:

Frequency or band	Class of station(s)	General reference	Limitations
Mc/s			
151.820	Base or mobile	Permanent use	11
151.835	do	do	11
151.850	do	do	11
151.865	do	do	11
151.880	do	do	11
151.895	do	do	11

Deleting from the tabulation of frequencies, entries beginning 158.40 and ending 158.40, and substituting the following:

Frequency or band	Class of station(s)	General reference	Limitations
Mc/s			
158.385	Base or mobile	Itinerant use	12
158.400	do	do	12

7. It is proposed that § 91.554 be amended by:

Deleting from the tabulation of frequencies in paragraph (a), entries beginning 154.540 and ending 154.600, and substituting the following:

Frequency or band	Class of station(s)	General reference	Limitations
Mc/s			
154.515	Base or mobile	Permanent use	10, 11
154.540	do	do	10, 11
154.570	Mobile	Low power general use	13, 14
154.600	do	do	13, 14
154.625	Base	One-way paging	32

Amending paragraph (b) by adding the following new subparagraph:

(32) This frequency will be assigned only for the specific purpose of one-way tone or voice paging. The plate power input to the final radiofrequency stage shall not exceed 30 watts.

8. It is proposed that § 91.730(a) be amended by:

Deleting from the tabulation of frequencies, entries beginning 153.05 and ending 153.38, and substituting the following:

Frequency or band	Class of station(s)	Limitations
Mc/s		
153.050	Base or mobile	1
153.065	do	1
153.080	do	1
153.095	do	1
153.110	do	1
153.125	do	1
153.140	do	1
153.155	do	1
153.170	do	1
153.185	do	1
153.200	do	1
153.215	do	1
153.230	do	1
153.245	do	1
153.260	do	1
153.275	do	1
153.290	do	1

Frequency or band	Class of station(s)	Limitations
153.305	do	1
153.320	do	1
153.335	do	1
153.350	do	1
153.365	do	1
153.380	do	1
153.395	do	1

Deleting from the tabulation, entries beginning 158.28 and ending 158.43, and substituting the following:

Frequency or band	Class of station(s)	Limitations
Mc/s		
158.280	Base or mobile	1
158.295	do	1
158.310	do	1
158.325	do	1
158.415	do	1
158.430	do	1

9. It is proposed that § 93.402(b) be amended by deleting the frequency tabulation and footnotes and substituting the following:

Base and Mobile Mc/s	*Mobile only Mc/s*
152.270	157.530
[1] 152.285	[1] 157.545
[1] 152.300	[1] 157.560
[1] 152.315	[1] 157.575
152.330	157.590
[1] 152.345	[1] 157.605
[1] 152.360	[1] 157.620
[1] 152.375	[1] 157.635
152.390	157.650
[1] 152.405	[1] 157.665
[1] 152.420	[1] 157.680
[1] 152.435	[1] 157.695
152.450	157.710

[1] These frequencies are available only for assignment to Base or Mobile Station operating wholly within Standard Metropolitan Areas having 50,000 or more population.

10. It is proposed that § 93.503(a) be amended by adding to the frequency tabulation the frequency 157.515 after the frequency 157.500, and by deleting footnotes 1 and 2.

It is proposed that § 93.503(c) be amended by deleting the frequency tabulation and substituting the following:

Frequency Mc/s	*Frequency Mc/s*
150.905	150.950
150.920	150.965
150.935	

It is proposed that § 93.503(d) be amended by deleting the frequency tabulation and substituting the following:

Frequency Mc/s	*Frequency Mc/s*
150.815	150.860
150.830	150.875
150.845	150.890

[F.R. Doc. 67-10729; Filed, Sept. 14, 1967; 8:45 a.m.]

[47 CFR Part 89]

[Docket No. 17581]

ELIGIBILITY OF MEDICAL ASSOCIATIONS FOR AUTHORIZATION IN THE SPECIAL EMERGENCY RADIO SERVICE

Order Extending Time for Filing Comments

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a request filed by the American Medical Association (AMA) for extension of time for filing reply comments in the above-captioned matter from September 7, 1967, to September 18, 1967.

2. In support of its request, AMA states that it has filed comments in the instant proceeding and wishes to file reply comments in response to those who oppose the proposed rule changes. However, since the comments have not been fully collected in the Dockets Division of the Commission, it has been unable to obtain copies of the pleadings necessary in filing its reply comments.

3. Since the comments in this Docket have not been fully assembled and available to the public, it appears that the requested extension of time is warranted.

4. In view of the foregoing; it is ordered, pursuant to §§ 0.331(b)(4) and 1.46 of the Commission's rules, that the

time for filing reply comments in the above-captioned proceeding is extended from September 7, 1967, to September 18, 1967.

Adopted: September 7, 1967.

Released: September 12, 1967.

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

[F.R. Doc. 67-10864; Filed, Sept. 14, 1967; 8:50 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Geological Survey

[No. 139]

WYOMING

Coal Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN, WYOMING

Noncoal Lands:

T. 41 N., R. 118 W., unsurveyed,
Secs. 1 to 36, inclusive.

The area described aggregates about 19,891 acres.

Dated: September 8, 1967.

ARTHUR A. BAKER,
Acting Director.

[F.R. Doc. 67-10860; Filed, Sept. 14, 1967; 8:50 a.m.]

Office of the Secretary

CRUDE AND UNFINISHED OILS

Maximum Level of Imports Into Puerto Rico

Maximum level of imports into Puerto Rico of crude oil and unfinished oils for allocations pursuant to paragraph (c) of section 15 of Oil Import Regulation 1.

Pursuant to paragraph (c) of section 2 of Proclamation 3279, as amended, a maximum level of imports of crude oil and unfinished oils into Puerto Rico is established at 3,288 B/D for persons holding allocations pursuant to paragraph (c) of section 15 of Oil Import Regulation 1, Revision 5 (32A CFR Ch. X), for the period January 1, 1967, through December 31, 1967.

DAVID S. BLACK,
Under Secretary of the Interior.

SEPTEMBER 8, 1967.

[F.R. Doc. 67-10854; Filed, Sept. 14, 1967; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[Notice 26]

WHEAT IN ILLINOIS AND CERTAIN OTHER STATES

Extension of Closing Date for Filing of Applications for 1968 Crop Year

Pursuant to the authority contained in § 401.3 of Title 7 of the Code of Federal Regulations, and pursuant to paragraph 1 of the resolution adopted by the Board of Directors of the Federal Crop Insurance Corporation on March 19, 1954, the time for filing applications for wheat crop insurance for the 1968 crop year in all counties in Illinois, Indiana, Michigan, Ohio, and Pennsylvania where such insurance is otherwise authorized to be offered is hereby extended until the close of business on September 29, 1967. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

JACK H. MORRISON,
Acting Manager,
Federal Crop Insurance Corporation.

[F.R. Doc. 67-10872; Filed, Sept. 14, 1967; 8:51 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

UNIVERSITY OF MIAMI

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00048-33-46040. Applicant: University of Miami, Coral Gables, Fla. 33124. Article: Electron Microscope, Norelco Type EM-300. Manufacturer: N. V. Philips Gloeilampenfabrieken, The Netherlands. Intended use of article: Research of Anterior Horn and Dorasal Root Ganglion Neurons as well as their axons and satellite cells. Study of selected regions of single peripheral nerve fibers and satellite cells, and measurement of alterations in lamellar spacings. Study of Neuromuscular diseased nerves and muscular biopsies of afflicted patients. Train research fellows in the use of this instrument. Comments: Comments were received from one domestic manufacturer, Radio Corporation of America (RCA), which alleges inter alia: "The RCA Model EMU-4 Electron Microscope with the following accessories [cold and anticontamination stage, and low magnification projector pole piece] is of equivalent scientific value to the instrument for which duty-free entry has been requested for the purposes stated in the application for which the instrument is intended to be used. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) RCA Model EMU-4 provides a guaranteed resolution of 8 Angstroms (RCA comments dated May 25, par. (4)(e)), whereas the foreign article provides a guaranteed resolution of 5 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolution.) The National Bureau of Standards advises us that the difference in resolution between 8 Angstroms and 5 Angstroms is significant within the context of the purposes for which the foreign article is intended to be used. Therefore, the 5 Angstrom resolving capability of the foreign article is pertinent. We find that the claim of the domestic manufacturer that the EMU-4 is theoretically capable of better than 8 Angstroms under certain conditions is irrelevant, because the resolving capability of the instrument must be evaluated on the basis of day-to-day operations under conditions customarily encountered in a laboratory. (2) The RCA Model EMU-4 provides only 2 accelerating voltages, 50 and 100 kilovolts, whereas the foreign article provides 5 accelerating voltages of 20, 40, 60, 80, and 100 kilovolts. We find that the 20 kilovolts accelerating capability provides greater image contrast which is necessary when using unstained specimens and that the accelerating voltages intermediate between 50 and 100 kilovolts are optimal for stained specimens. RCA claims that an objective aperture of 10 microns will provide image contrast which is equal to or better than that obtained with the 20 kilovolts accelerating capability of the foreign article.

Applicant states that even the slightest imperfection in the 10 micron aperture, or the slightest misalignment of the aperture, can contribute greatly to astigmatism which cannot be eliminated by heating the objective aperture holder (page 2, par. A, letter from University of Miami dated June 12, 1967). The Bureau of Standards advises us that the claim of RCA regarding the contrast producing capabilities of the 10 micron aperture has not been established. We find therefore that with respect to this characteristic, the EMU-4 is not scientifically equivalent to the foreign article for the purposes for which such article is intended to be used. For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which the foreign article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is

being manufactured in the United States.

THOMAS Z. CORLESS,
Acting Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-10806; Filed, Sept. 14, 1967; 8:45 a.m.]

Maritime Administration

AMERICAN EXPORT ISBRANDTSEN LINES, INC.

Notice of Application

Notice is hereby given that American Export Isbrandtsen Lines, Inc., has applied for an increase of eight subsidized sailings on its Line B, Trade Route No. 10 (U.S. North Atlantic/Mediterranean and Black Sea) freight service from a maximum of 102 to a maximum of 110 sailings per annum, for 1967 only.

In connection with said application it is noted that U.S.-flag participation in 1966 in commercial cargo traffic carried by vessels in liner service on Trade Route No. 10 (U.S. North Atlantic/Mediterranean) was 32 percent outbound and 39 percent inbound. The following table shows liner carryings of commercial cargo on Trade Route No. 10 during calendar years 1964, 1965, and 1966, and U.S.-flag participation therein:

TRADE ROUTE NO. 10—COMMERCIAL CARGO CARRIED BY VESSELS IN LINER SERVICE

Calendar year	Outbound			Inbound		
	Total U.S. and foreign	U.S. flag	U.S. percent	Total U.S. and foreign	U.S. flag	U.S. percent
1964	1,442,685	554,205	38	849,803	324,709	38
1965	1,286,431	429,698	33	911,225	349,552	38
1966	1,206,009	389,239	32	933,050	365,012	39

Source: U.S. Department of Commerce, Bureau of the Census.

Any person, firm, or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should by the close of business on September 26, 1967, notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

In the event petitions to intervene are received from a party or parties having standing to be heard, an expedited hearing will be held because of the temporary nature of the service being proposed. The purpose of such hearing will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on a service, route, or line served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry in such service, route, or line is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Merchant Marine Act, 1936, as amended, additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: September 14, 1967.

By order of the Maritime Subsidy Board.

JOHN M. O'CONNELL,
Assistant Secretary.

[F.R. Doc. 67-10925; Filed, Sept. 14, 1967; 10:21 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AIR PRODUCTS AND CHEMICALS, INC.

CIS-2,3,5,5,5-Pentachloro-4-Ketopentenoic Acid; Notice of Establishment of Temporary Tolerance

Notice is given that at the request of Air Products and Chemicals, Inc., Allentown, Pa. 18105, a temporary tolerance of 2.25 parts per million for the combined residues of the desiccant and defoliant *cis*-2,3,5,5,5-pentachloro-4-ketopentenoic acid and its metabolite dichloromaleic acid in or on cottonseed is established. The Commissioner of Food and Drugs has determined that this temporary tolerance will protect the public health.

A condition under which this temporary tolerance is established is that the desiccant and defoliant will be used in accordance with the temporary permits issued by the U.S. Department of Agriculture.

This temporary tolerance expires September 5, 1968.

This action is taken pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and delegated by him to the Commissioner (21 CFR 2.120).

Dated: September 5, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-10868; Filed, Sept. 14, 1967; 8:50 a.m.]

ROHM AND HAAS CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 7A2190) has been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105, proposing that paragraph (b)(2) of § 121.1148 *Ion-exchange resins* be amended to read as follows:

(2) The ion-exchange resin identified in paragraph (a)(13) of this section [methyl acrylate-divinylbenzene copolymer * * *] is used to treat foods, including potable water, subject to the following conditions:

(i) The temperature of the food passing through the resin bed is maintained at 60° C. or less.

(ii) The flow rate of the food passing through the resin bed is not less than that indicated in the second column below when the temperature of the food is equal to or less than that indicated in the first column.

MINIMUM FLOW RATE OF FOOD PASSING THROUGH RESIN BED AS A FUNCTION OF MAXIMUM FOOD TEMPERATURE

Maximum temperature (°C.)	*Minimum flow rate (gallons per cubic foot per minute)*
25	0.4
30	0.5
35	1.0
40	1.5
45	2.5
50	4.0
55	6.0
60	10.0

Dated: September 6, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-10869; Filed, Sept. 14, 1967; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-299]

GENERAL ELECTRIC TECHNICAL SERVICES CO., INC.

Notice of Application for and Proposed Issuance of Facility Export License

Please take notice that General Electric Technical Services Co., Inc., a wholly

owned subsidiary of the General Electric Co., 1331 H Street NW., Washington, D.C. 20005, has submitted an application dated July 24, 1967, for a license to authorize the export of a 300 megawatt electrical nuclear reactor to the Bernische Kraftwerke AG., Bern, Switzerland.

Upon finding that the proposed export of the reactor is within the scope of and consistent with the terms of the Agreement for Cooperation between the Governments of the United States of America and Switzerland, and unless within 15 days after the publication of this notice in the FEDERAL REGISTER, a request for a hearing is filed with the U.S. Atomic Energy Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of Regulation will cause to be issued to General Electric Technical Services Co., Inc., a facility export license containing the authority set forth in the text below and cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Secretary will issue a notice of hearing or an appropriate order.

Pursuant to the Atomic Energy Act of 1954, as amended, and Title 10, Chapter 1, Code of Federal Regulations, the Commission has found that:

(a) The application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Commission does not evaluate the health and safety characteristics of the facility to be exported.

A copy of the application, dated July 24, 1967, is on file in the Atomic Energy Commission's Public Document Room, located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 31st day of August 1967.

For the Atomic Energy Commission.

EBER R. PRICE,
Director, Division of State and Licensee Relations.

PROPOSED EXPORT LICENSE

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations of the U.S. Atomic Energy Commission issued pursuant thereto, and in reliance on statements and representations heretofore made, General Electric Technical Services Co., Inc., a wholly owned subsidiary of the General Electric Co., is authorized to export a 300 megawatt electrical nuclear reactor to Bernische Kraftwerke AG., Bern, Switzerland, subject to the terms and provisions herein. The license to export extends to the licensee's duly authorized shipping agent.

Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954.

This license is subject to the right of recapture or control reserved by section 108 of the Atomic Energy Act of 1954, and to all other provisions for said Act, now or hereafter in effect and to all valid rules and regulations of the U.S. Atomic Energy Commission. This license is effective as of the date of issuance and shall expire on July 31, 1973.

For the Atomic Energy Commission.

[F.R. Doc. 67-10804; Filed, Sept. 14, 1967; 8:45 a.m.]

[Docket No. 50-288]

REED INSTITUTE (REED COLLEGE)

Notice of Proposed Issuance of Construction Permit

The Atomic Energy Commission ("the Commission") is considering the issuance of a construction permit, substantially as set forth below, to The Reed Institute (Reed College) which would authorize the College to receive, possess, and construct a TRIGA Mark I nuclear reactor on its campus in Portland, Oreg.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by the issuance of this construction permit may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this proposed issuance, see (1) the application dated April 15, 1967, and supplements thereto dated July 5 and August 22, 1967, and (2) the related Safety Evaluation prepared by the Division of Reactor Licensing which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the Safety Evaluation may be obtained at the Commission's Document Room, or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 13th day of September 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

PROPOSED CONSTRUCTION PERMIT

1. By application dated April 15, 1967, and supplements thereto dated July 5 and August 22, 1967 (hereinafter "the application"), The Reed Institute (Reed College) (hereinafter "Reed College") requested a Class 104 license authorizing construction and operation of a TRIGA Mark I nuclear research reactor facility (hereinafter "the facility") on its campus in Portland, Oreg.

2. The Atomic Energy Commission ("the Commission") has found that:

A. The application complies with the requirements of the Atomic Energy Act of 1954, as amended ("the Act"), and the Commission's regulations set forth in Title 10, Chapter 1, CFR;

B. The facility will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities";

C. The facility will be used in the conduct of research and development activities of the types specified in section 31 of the Act;

D. Reed College is financially qualified to construct the facility in accordance with the Commission's regulations contained in Title 10, Chapter 1, CFR;

E. Reed College and its contractor, General Atomic Division of General Dynamics Corp., are technically qualified to design and construct the facility;

F. Reed College has submitted sufficient technical information concerning the proposed facility to provide reasonable assurance that the proposed facility can be constructed and operated at the proposed location without endangering the health and safety of the public;

G. The issuance of the proposed construction permit will not be inimical to the common defense and security or to the health and safety of the public.

3. Pursuant to the Act and Title 10, CFR, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues a construction permit to Reed College to construct the facility in accordance with the application. This permit should be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations, and orders of the Commission now or hereafter in effect, and is subject to the additional conditions specified below:

A. The earliest completion date of the facility is October 15, 1967. The latest completion date of the facility is March 15, 1968. The term "completion date", as used herein, means the date on which construction of the facility is completed except for the introduction of the fuel material.

B. The facility shall be constructed on the campus of Reed College in Portland, Oreg., at the location specified in the application.

4. Upon completion of the construction of the facility in accordance with the terms and conditions of this permit, upon finding that the facility authorized has been constructed and will operate in conformity with the application and the provisions of the Act and of the rules and regulations of the Commission, upon execution of the indemnity agreement as required by section 170 of the Act, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission will issue a Class 104 license to Reed College pursuant to section 104c of the Act, which license shall expire forty (40) years from the date of issuance of this construction permit, unless sooner terminated.

Date of issuance:

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-10913; Filed, Sept. 14, 1967; 8:51 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING ASSISTANCE ADMINISTRATION AND RENEWAL ASSISTANCE ADMINISTRATION

Designation of Acting Officials To Serve During Present Vacancies and Order of Precedence To Serve as Acting Officials

Section A, *Designation of Acting Officials To Serve During Present Vacancies*, effective July 1, 1966 (31 F.R. 9141, July 2, 1966), is amended by changing item 2 thereof to read as follows:

2. General Deputy, Housing Assistance Administration: Abner D. Silverman.

Effective date. This amendment is effective as of September 5, 1967.

DON HUMMEL,
Assistant Secretary for Renewal and Housing Assistance.

[F.R. Doc. 67-10873; Filed, Sept. 14, 1967; 8:51 a.m.]

FEDERAL MARITIME COMMISSION

AEGEAN CRUISES, S.A. (EPIROTIKI LINES)

Application for Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate [Casualty]

Notice is hereby given that pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) & Federal Maritime Commission General Order 20 (46 CFR Part 540) that A Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages has been issued to the following (effective on Sept. 1, 1967):

Aegean Cruises, S.A. (Epirotiki Lines) "M.T.S. Argonaut". Certificate No. C-1,054.

Dated: September 12, 1967.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-10874; Filed, Sept. 14, 1967; 8:51 a.m.]

AEGEAN CRUISES, S.A. (EPIROTIKI LINES) AND NORTH CAROLINA SAVINGS AND LOAN LEAGUE, INC.

Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate [Performance]

Notice is hereby given that pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20 (46 CFR Part 540) that a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation has been issued to the following:

Aegean Cruises, S.A. (Epirotiki Lines) "M.T.S. Argonaut". Certificate No. P-59. Effective date: September 1, 1967.

North Carolina Savings & Loan League, Inc. Certificate No. P-60. Effective date: September 1, 1967.

Dated: September 12, 1967.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-10875; Filed, Sept. 14, 1967; 8:51 a.m.]

[Docket No. 65-43; 4th Supp. Order]

ATLANTIC-GULF/PUERTO RICO TRADE AND SOUTH ATLANTIC & CARIBBEAN LINES, INC.

Investigation of Household Appliance Rates and Certain Other Reduced Rates

By order served November 24, 1965, the Commission entered into an investigation concerning the lawfulness of certain reduced rates and other matters affecting the transportation of household appliances from Jacksonville to ports in Puerto Rico.

Second and third supplemental orders, served January 6, 1966, and March 4, 1966, respectively, added Gulf-Puerto Rico Lines, Inc., and Seatrain Lines, Inc., as respondents in addition to originally named respondents Sea-Land Service, Inc.; TMT Trailer Ferry, Inc. (C. Gordon Anderson, Trustee); and South Atlantic & Caribbean Lines, Inc. Third supplemental order also changed the name of the proceeding and expanded the investigation.

On August 28, 1967, South Atlantic & Caribbean Lines, Inc., filed a fourth revised Page 8-A to its Freight Tariff FMC-F No. 7 effective September 1, 1967, which publishes a new reduced overflow rate of 38 cents per cubic foot on household appliances moving from Jacksonville and Miami, Fla., to Puerto Rico.

The Commission is of the opinion that the new reduced rate filed by South Atlantic & Caribbean Lines, Inc., may have a direct bearing on the matters currently under investigation herein and therefore should be included in the investigation to determine whether they are unjust, unreasonable, or otherwise unlawful, under the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933;

Now, therefore it is ordered, That this proceeding be, and it is hereby expanded to include an investigation into and a hearing concerning the lawfulness of the proposed overflow rate reduction on household appliances currently scheduled to become effective September 1, 1967, on Fourth Revised Page 8-A in the aforementioned tariff, with a view to making such findings and orders in the premises as facts and circumstances shall warrant;

It is further ordered, That all subsequent revisions of the rates or other matters affecting the transportation of household appliances, filed by South Atlantic & Caribbean Lines, Inc., shall be, and they are hereby placed under investigation in this proceeding;

It is further ordered, That (I) a copy of this order shall forthwith be served upon all respondents and protestants herein; (II) the said respondents and protestants be duly notified of the time and place of the hearing ordered; and (III) this order and notice of the said hearing be published in the FEDERAL REGISTER.

All persons (including individual, corporation, association, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72).

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 67-10876; Filed, Sept. 14, 1967; 8:51 a.m.]

[Docket No. 67-35]

SEA-LAND SERVICE, INC.

Investigation of Reduced Rates in Jacksonville/Puerto Rico Trade

On May 29, 1967, the Federal Maritime Commission instituted this proceeding suspending and investigating the rates of Sea-Land Service, Inc., scheduled to become effective June 2, 1967, setting forth new reduced rates and charges on "Doors, Steel, folding, primed, not glazed, and/or new rules, regulations and practices affecting such rates, and charges." Use of the suspended matter has been deferred to and including October 1, 1967, and hearing in this proceeding has been scheduled for October 2, 1967.

Hearing Counsel have moved to amend the order of investigation by including therein section 16 First of the Shipping Act, 1916 (the Act), as well as section 18(a) of that Act, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, presently contained in this proceeding. They indicate that the different rates on the commodity here under investigation from Jacksonville and the other ports served by Sea-Land may give an undue or unreasonable preference to the port of Jacksonville and the persons shipping from that port in violation of section 16 First of the Act.

Sea-Land has opposed the motion to amend the order of investigation, maintaining that no investigation of its reduced rates should be instituted unless TMT Trailer Ferry, Inc.'s (TMT) rate on the same commodity is also included in the investigation. The reduced rate of Sea-Land had been filed in response to a similar reduction by TMT. The Commission considered that reduction which was protested by Sea-Land and declined to suspend or investigate the reduced rate.[1] Merely because it does not appear

[1] Vice Chairman Hearn would have included TMT's reduced rate in this proceeding. See order of May 29, 1967.

to the Commission that one carrier is likely to operate unprofitably at a certain rate level does not mean that another carrier will operate profitably at the same rate level. Moreover, the Commission has recently stated in Docket No. 1182, Rates From Jacksonville, Fla., to Puerto Rico, mimeo served May 9, 1967, that Sea-Land had not demonstrated a competitive necessity for lowering its Jacksonville rates and eliminating TMT's differential.

The inclusion of section 16 First in this proceeding will not unduly complicate or lengthen its conduct. Hearings have already been scheduled as noted above. As the suspended rate will be in effect as of the time of hearing, there appears no reason to conclude the matters now under investigation prior to the examination of the section 16 First issue. Although the respondent has the burden of proof under Rule 10(o) of the Commission's rules of practice and procedure to show that the matters which have been suspended are just and reasonable and the burden with respect to other matters is by that rule placed upon the Commission in this proceeding, respondent is reminded that it does bear some burden with respect to the section 16 First issue. As the Commission indicated in its Docket 1182, supra, a reduction in Sea-Land's rates out of Jacksonville without a concurrent reduction in its rates out of North Atlantic ports, absent a showing that cost or other transportation conditions justifies such a rate policy, on its face works a preference to Jacksonville and prejudice to other Atlantic ports served by Sea-Land. In the light of such prima facie position, the burden of going forward, or at least enabling the Commission to do so, is upon respondent. As the Commission observed in Puerto Rico Rates, 2 U.S.M.C. 117, 124 (1939), this is particularly the case with respect to financial data relating to operations and reasons which impelled proposed rates which are in the carriers' sole possession.

Therefore, it is ordered, That the second paragraph of the order of investigation in this proceeding dated May 29, 1967, be amended to read as follows:

Upon consideration of the said schedule, there is reason to believe that the above designated rate change if permitted to become effective would be unjust, unreasonable or otherwise unlawful under sections 16 First and 18(a) of the Shipping Act, 1916 and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933, and good cause appearing therefore,

It is further ordered, That (I) a copy of this order shall forthwith be served on the respondent herein; (II) the said respondent be duly notified of the time and place of the hearing; and (III) this order be published in the FEDERAL REGISTER and notice of said hearing be served upon the respondent.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) with a copy to the respondent.

It is further ordered, That the order of May 29, 1967, shall in all other respects remain the same.

By the Commission.

[SEAL] THOMAS LISI, *Secretary.*

[F.R. Doc. 67-10877; Filed, Sept. 14, 1967; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP68-66]

EL PASO NATURAL GAS CO.

Notice of Application

SEPTEMBER 8, 1967.

Take notice that on August 31, 1967, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP68-66 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to a new resale customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to sell and deliver volumes of natural gas to Western Gas Interstate Co. (Interstate) for transportation and resale to Western Gas Service Co. (Western) for resale and distribution in the communities of Anthony and Canutillo, Tex., their respective environs and adjacent areas of New Mexico. Applicant states that Western presently purchases natural gas from Applicant at two points situated near Anthony and Canutillo, Tex., respectively, and that Interstate, a wholly owned subsidiary of Western, proposes to succeed Western as purchaser from Applicant at such points and to transport and sell natural gas to Western for resale and distribution. Applicant further states that no new or additional facilities are or will be required to render the service proposed above.

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 October 6, 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 is required by the public convenience and necessity. If a protest or petition for leave to intervent is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-10807, Filed, Sept. 14, 1967; 8:45 a.m.]

[Docket No. E-7273]

INDIANA & MICHIGAN ELECTRIC CO., AND OHIO POWER CO.

Order Fixing Date of Hearing and Prescribing Related Procedures

SEPTEMBER 8, 1967.

This proceeding was instituted by our order of March 1, 1966, 35 FPC 298. This order relates solely to the rates and practices of Indiana & Michigan Electric Co. (I&M). Since the date of initiation of this proceeding the staff has conducted a field investigation and I&M's representatives have submitted extensive cost and engineering data. In addition, on July 5, 1967, counsel for I&M submitted a special report, covering I&M's wholesale service to 16 municipally owned utilities located in Indiana and Michigan and to the Michigan Gas and Electric Co., to the Commission's staff, all intervenors, and certain interested wholesale customers who have not petitioned for intervention.

Since the commencement of this proceeding I&M has voluntarily reduced its wholesale rates to nine municipally owned utilities by amounts which, had they been in effect in the year 1965, would have aggregated about $330,000. In addition, three settlement conferences were held among the company, the staff and the intervenors on July 14, August 9 and August 29, 1967, but the parties could not reach agreement. As a result of the last of the aforesaid informal conferences, on August 29, 1967, the parties reached informal agreement on a schedule for prehearing conference, with a Presiding Examiner, service of direct testimony by all parties, filing of motions to strike, rulings thereon by the Presiding Examiner and the date for commencement of hearing.

The Commission finds: It is necessary and appropriate and in the public interest to hold a public hearing respecting the matters involved and the issues presented as indicated in our previous order of March 1, 1966 (35 FPC 298) and as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and as indicated previously in our order of March 1, 1966, in this docket, (35 FPC 298) a public hearing shall be held on February 6, 1968, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, at 10 a.m., e.d.t.

(B) The following procedure is prescribed for the public hearing herein ordered:

(1) The Commission's staff and I&M shall file their entire case-in-chief not later than December 4, 1967. Such presentations shall include, but not be limited to, complete cost and revenue data using 1965 as the test year, showing I&M's cost of rendering service to the wholesale customers indicated in Appendix A to our earlier order of March 1, 1966 (35 FPC 298, 300–303), calculated in accordance with applicable Commission precedents and submitted in the form as prescribed in Statements A through O, § 35.13(b)(4)(iv). An original and nine conformed copies of such testimnoy shall be submitted to this Commission and two copies shall be served on the Public Service Commissions of the States of Indiana and Michigan, and each intervenor, and one copy shall be served on each wholesale customer as indicated in Appendix A to our March 1, 1966, order.

(2) A prehearing conference pertaining to the issues in this proceeding insofar as they relate to I&M shall be held on September 12, 1967, or at such later date as is deemed appropriate by a Presiding Examiner to be designated by the Commission's Chief Examiner in a hearing room at the Commission's offices, 441 G Street NW., Washington, D.C. 20426, at 10 a.m., e.d.t.

(3) all other parties shall file their case-in-chief not later than December 22, 1967 and in so doing shall submit and serve the number of copies indicated in paragraph (B)(1) above;

(4) Motions to strike by all parties shall be filed no later than January 5, 1968.

(5) The Presiding Examiner shall dispose of motions to strike no later than January 15, 1968.

(C) All of the testimony comprising the case-in-chief of each party shall be in question and answer form. No exhibits (except those of which official notice may properly be taken) shall contain narrative material other than brief explantatory notes. All exhibits (except those of which official notice may properly be taken) shall contain brief and appropriate titles and the exhibits shall be adequately explained in the prepared testimony by the witness or witnesses sponsoring them. Any party submitting more than one exhibit shall include a cover sheet listing the title of each exhibit in the sequence in which they wish them to be marked for indentification.

(D) Requests for extension of time concerning the time for any filing prescribed herein shall be made in writing served on all parties and filed with the Presiding Examiner (together with a certificate of service) at least 10 days in advance of the date specified herein (or as may have been extended), and any answers thereto shall be filed with the Presiding Examiner within five days after the request for extension.

(E) The Commission's rules of practice and procedure (18 CFR, Subchapter A, Part 1) shall apply in this proceeding except to the extent that they are modified or supplemented herein, by our order of March 1, 1966 (35 FPC 298), or to the extent that they are further modified or supplemented by the Presiding Examiner with the consent of all the parties.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-10808; Filed, Sept. 14, 1967; 8:45 a.m.]

[Docket No. CP68-64]

NORTHERN NATURAL GAS CO.

Notice of Application

SEPTEMBER 7, 1967.

Take notice that on August 30, 1967, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP68-64 an application pursuant to subsection (c) of section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the merger of its wholly owned subsidiary, American Gas Pipeline Co. (American), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization for the merger of its wholly owned subsidiary, American, by the exchange of all American's outstanding stock, owned by Applicant, for all of American's assets. After completing the transfer, the common stock of American will be cancelled. Applicant states that upon dissolution of American it will continue to render, through the facilities now owned by American, all services now rendered or contemplated by American.

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 October 6, 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 is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-10809; Filed, Sept. 14, 1967; 8:45 a.m.]

[Docket No. CP68-63]

TENNESSEE GAS PIPELINE CO.

Notice of Application

SEPTEMBER 7, 1967.

Take notice that on August 30, 1967, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Applicant), Post Office Box 2511, Houston, Tex. 77001, filed in Docket No. CP68-63 an application pursuant to subsection (c) of section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of an additional contracted demand to an existing customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to sell and deliver to Orange and Rockland Utilities, Inc. (Utilities) an additional contracted demand of 7,000 Mcf per day of natural gas and to decrease Utilities' authorized natural gas storage service in the amount of 7,000 Mcf per day of daily storage quantity and 630,000 Mcf of winter storage quantity. Applicant states that it will be able to render the service proposed above from available capacity in its existing system. Applicant further states that after 1 year such service will be made available through daily design capacity to be made available as Applicant "steps down" its service to Trans-Canada. Applicant also states that no new or additional facilities will be required to render the service proposed above.

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 October 6, 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 is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-10810; Filed, Sept. 14, 1967; 8:45 a.m.]

[Docket No. CP67-192 etc.]

TOWN OF BROOKLYN, IOWA ET AL.

Order Granting Consolidation and Permitting Intervention

SEPTEMBER 8, 1967.

Town of Brooklyn, Iowa, Docket No. CP67-192; Northern Natural Gas Co., Docket No. CP67-260; Michigan Gas and Electric Co., Docket No. CP68-25.

On August 16, 1967, in the above-entitled proceedings, Michigan Gas and Electric Co. (MG&E) filed a motion for an order consolidating its application in Docket No. CP68-25, which seeks an allocation of gas from Northern Natural Gas Co. (Northern) pursuant to section 7(a) of the Natural Gas Act, as amended, with the section 7(a) application of the town of Brooklyn, Iowa, in Docket No. CP67-192, and with Northern's section 7(c) application in Docket No. CP67-260.

MG&E contends that its section 7(a) application seeking an allocation of gas from Northern should be heard on a consolidated record with the applications for service to various Iowa towns from Northern in Docket Nos. CP67-192 and CP67-260. No answers in opposition to the proposed consolidation have been filed and MG&E has already filed its direct presentation in accordance with the procedure set up by the Commission's August 8, 1967, order in these proceedings. These applications are clearly related and, since no significant delay should result, they should be heard upon a consolidated record.

On August 25, 1967, Iowa Electric Light and Power Co. (Iowa Electric) filed a late petition to intervene in Docket No. CP67-260. No one has filed opposing the late intervention and since Iowa Electric is the proposed distributor in seven of the communities included in Northern's application in Docket No. CP67-260, Iowa Electric has alleged sufficient interest to warrant intervention even though its petition was filed late.

Michigan Public Service Commission filed a timely notice of intervention in Docket No. CP68-25.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the matter in Docket No. CP68-25 be consolidated with Docket Nos. CP67-192 and CP67-260 for hearing and decision.

(2) It is desirable and in the public interest to allow Iowa Electric to intervene in these proceedings in order that the petitioner may establish the facts and the law from which the nature and validity of its alleged rights and interest may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

The Commission orders:

(A) The above-entitled proceedings are hereby consolidated for the purpose of hearing and decision.

(B) Iowa Electric Light and Power Co. is hereby permitted to intervene in these consolidated proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interest as specifically set forth in said petition for leave to intervene: *And provided, further,* That the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-10811; Filed, Sept. 14, 1967; 8:45 a.m.]

[Docket No. CP68-65]

TRUNKLINE GAS CO.

Notice of Application

SEPTEMBER 7, 1967.

Take notice that on August 31, 1967, Trunkline Gas Co. (Applicant), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP68-65 an application pursuant to subsection (c) of section 7 of the Natural Gas Act 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 authorization to construct and operate a 16-inch header pipe, valves and necessary fittings to enable it to connect its facilities with the facilities of Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee). Applicant states that it has entered into a short-term natural gas purchase agreement with Tennessee and both parties have agreed to the sale and delivery of such volumes of natural gas at a delivery point located in Jefferson Davis Parish, La., where Applicant proposes to construct the facilities described above.

Applicant estimates the total cost of the facilities proposed at approximately $7,361, said cost to be financed from funds on hand.

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 October 6, 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 is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-10812; Filed, Sept. 14, 1967; 8:45 a.m.]

[Docket No. CP68-69]

UNITED GAS PIPE LINE CO.

Notice of Application

SEPTEMBER 8, 1967.

Take notice that on September 5, 1967, United Gas Pipe Line Co. (Applicant), Post Office Box 1407, Shreveport, La. 71102, filed in Docket No. CP68-69 an application pursuant to subsection (c) of section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery of natural gas for resale and distribution, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate approximately 50 feet of 2-inch pipeline, a meter station and appurtenant facilities on Applicant's 4-inch pipeline serving Acme Brick Co. near Garrison, Nacogdoches County, Tex.

Applicant also seeks authorization to sell and deliver to South Rusk County Gas Co., Inc. (Rusk), volumes of natural gas for resale and distribution through the proposed distribution system of Rusk. Applicant states that the sales proposed will be made through the facilities proposed above. Applicant further states that Rusk estimates its natural gas requirements for the first year at 33,300 Mcf.

Applicant estimates the total cost of the proposed facilities at approximately $6,964, said cost to be financed out of current working funds.

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 October 9, 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 is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal

hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-10813; Filed, Sept. 14, 1967; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

HAWKEYE BANCORPORATION

Order Approving Application Under Bank Holding Company Act

In the matter of the application of Hawkeye Bancorporation, Red Oak, Iowa, for approval of action to become a bank holding company through the acquisition of 51 percent or more of the voting shares of Houghton State Bank, Red Oak, Iowa.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.4 (a)(1) of Federal Reserve Regulation Y (12 CFR 222.4(a)(1)), an application by Hawkeye Bancorporation, Red Oak, Iowa, for the Board's prior approval of action to become a bank holding company through the acquisition of 51 percent or more of the voting shares of Houghton State Bank, Red Oak, Iowa. Hawkeye Bancorporation presently owns a majority of the voting shares of Lyon County State Bank, Rock Rapids, Iowa.

As required by section 3(b) of the Act, the Board notified the State of Iowa Banking Department of the application and requested views and recommendation thereon. On behalf of the Banking Department, the Superintendent of Banks recommended that the application be approved.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 30, 1966 (31 F.R. 12814), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

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 the acquisition so approved 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 the order unless such time shall be extended by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

Dated at Washington, D.C., this 7th day of September 1967.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-10814; Filed, Sept. 14, 1967; 8:45 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 Chicago.

[2] Voting for this action: Vice Chairman Robertson, and Governors Mitchell, Maisel, and Sherrill. Absent and not voting: Chairman Martin, and Governors Daane and Brimmer.

SECURITIES AND EXCHANGE COMMISSION

JODMAR INDUSTRIES, INC.

Order Suspending Trading

SEPTEMBER 11, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Jodmar Industries, Inc., 1790 East 93d Street, Brooklyn, N.Y., and all other securities of Jodmar Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 11, 1967, through September 20, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-10818; Filed, Sept. 14, 1967; 8:46 a.m.]

[811-1377]

LIFE STOCK EXCHANGE FUND, INC.

Notice of Filing of Application for Order Declaring Company Has Ceased To Be Investment Company

SEPTEMBER 11, 1967.

Notice is hereby given that Life Stock Exchange Fund, Inc. ("applicant"), 50 Broadway, New York, N.Y., a Delaware corporation registered as a diversified open-end investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order declaring that applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is to be dissolved under state law and its single security holder has consented to such dissolution.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, which may be made upon appropriate conditions necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 29, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall 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 applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. 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. 67-10819; Filed, Sept. 14, 1967; 8:46 a.m.]

[70-4533]

NEW ENGLAND POWER CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

SEPTEMBER 11, 1967.

Notice is hereby given that New England Power Co. ("NEPCO"), 441 Stuart Street, Boston, Mass. 02116, an electric utility subsidiary company of New England Electric System, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rules 42(b) (2) and 50 as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

NEPCO proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $15 million principal amount of first mortgage bonds, series M, -- percent due October 1, 1997. The interest rate (which shall be a multiple of one eighth of 1 percent) and the price, exclusive of accrued interest (which shall be not less than 100 percent nor more than 102.75 percent of the principal amount thereof), will be determined by the competitive bidding. The bonds will be issued under an indenture of trust and first mortgage dated November 15, 1936, between NEPCO and New England Merchants National Bank of Boston (successor to the New England Trust Co.), Trustee, as heretofore supplemented and as to be further supplemented by a 12th supplemental indenture to be dated October 1, 1967.

The net proceeds from the sale will be applied to the payment of NEPCO's short-term notes evidencing borrowings made to pay for capitalizable expenditures or to reimburse the treasury therefor. Such notes are expected to be outstanding in the amount of $21 million at the time of the proposed issuance and sale of the bonds.

The fees and expenses to be paid in connection with the proposed transactions are estimated at $75,000, including $34,000 for legal, accounting and other services to be rendered at cost by the system service company. The fees and expenses of independent counsel for the underwriters, to be paid by the successful bidders, are to be supplied by amendment.

It is stated that the Massachusetts Department of Public Utilities, the New Hampshire Public Utilities Commission, and the Vermont Public Service Board have jurisdiction over the proposed issuance and sale of bonds and 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 October 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 application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, 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 applicant at the above-stated address, 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 application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. 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. 67-10820; Filed, Sept. 14, 1967; 8:46 a.m.]

[812-2161]

WYOMING INDUSTRIAL DEVELOPMENT CORP.

Notice of Filing of Application Exempting Company From All Provisions of Act

SEPTEMBER 11, 1967.

Notice is hereby given that Wyoming Industrial Development Corp. ("applicant"), 143 South Wolcott, Casper, Wyo. 82601, a Wyoming corporation, organized under the Wyoming Industrial Corporation Act, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, summarized below.

Applicant represents that its primary function is to supply needed capital to Wyoming businesses unable otherwise to obtain institutional financing and that its primary motive is the industrial and commercial expansion of Wyoming. Applicant will do business only in Wyoming and only with companies doing or proposing to do business in Wyoming (although some of the companies may be non-Wyoming corporations and also doing business outside Wyoming).

Applicant proposes to offer 10,000 shares of common stock, par value $100 per share, which will be registered with the Commission under the Securities Act of 1933. No commission or other remunertion will be paid in connection with the sale of these securities.

Applicant will limit the offering to established firms and corporations who are sophisticated in securities matters and to successful businessmen and others who are capable of understanding and assuming the risks involved. The offering will be open only to those acquiring the shares for investment and not with a view to public distribution.

In addition to equity capital, applicant represents that it proposes to obtain funds through loans, evidenced by promissory notes, from banks and other financial institutions, which have become or may become members of applicant by making application to it to lend funds to it upon call, subject to limits established by the Wyoming Industrial Corporation Act.

Applicant represents that its members will acquire its promissory notes for investment and not with a view to public distribution except members may resell such notes to other financial institutions acquiring same on a comparable basis. Applicant also expects to obtain funds for lending by participating in the program established by the Small Business Administration pursuant to the provisions of section 501 of the Small Business Investment Act of 1958.

Since applicant will be engaged in the business of investing, and since it proposes to acquire investment securities having a value exceeding 40 percent of its total assets, applicant is an investment company within the definition of section 3(a)(3) of the Act and is required to register unless exempted pursuant to section 6(c) of the Act. Section 6(c) of the Act provides, among other things, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that the nature of applicant and of its proposed operation is such that its regulation under the Act is not necessary to accomplish the purposes of the Act and that applicant should be granted an exemption from all provisions of the Act pursuant to section 6(c) thereof.

Notice is further given that any interested person may, not later than September 29, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon the application shall be issued upon request or upon the Commission's own motion. 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. 67-10821; Filed, Sept. 14, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 450]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 11, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9325 (Sub-No. 34 TA), filed September 6, 1967. Applicant: K LINES, INC., Post Office Box 216, Lebanon, Oreg. 97355. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: To transporting, *lime*, in bulk, from Portland, Oreg., to Samoa, Calif., and points within a 15 mile radius thereof, for 150 days. Supporting shipper: Ash Grove Lime & Portland Cement Co., 101 West 11th Street, Kansas City, Mo. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 29919 (Sub-No. 15 TA), filed September 6, 1967. Applicant: KOWALSKY'S EXPRESS SERVICE, 2235 West Main Street, Millville, N.J. 08332. Applicant's representative: Charles E. Creager, 10 West Boscawen, Post Office Box 81, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, plastic articles, and closures therefor*, from Gloucester City and Millville, N.J., to points in Massachusetts, Maryland, New York, Pennsylvania, Virginia, and the District of Columbia, and *pallets and containers* used for the transportation of the commodities specified above, and *closures therefor*, on return, for 180 days. Supporting shipper: Armstrong Cork Co., Lancaster, Pa. 17604. Send protests to: District Supervisor, Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, 402 East State Street, Trenton, N.J. 08608.

No. MC 83539 (Sub-No. 217 TA), filed September 5, 1967. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, Dallas, Tex. 75208. Applicant's representative: J. P. Welsh, Post Office Box 5976, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery*, knocked down, and *tractor canopies, tractor cabs, forks, blades, and grapples*, from Portland and Madras, Oreg., to points in Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Foster Manufacturing Co., Inc., Box U, Madras, Oreg. 97741. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 99427 (Sub-No. 9 TA), filed September 6, 1967. Applicant: ARIZONA TANK LINES, INC., Post Office Box 6430, Phoenix, Ariz. 85005. Applicant's representative: William J. Lippman, Galland, Kharasch, Calkin and Lippman, 1824 R Street, NW., Washington, D.C. 20009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from the site of the Shell Oil Refinery at or near Ciniza, N. Mex., to points in Arizona, for 180 days. Supporting shippers: Springer Corp., Post Office Drawer S, Albuquerque, N. Mex. 87103; Gulf Oil Corp., Post Office Box 54064, Terminal Annex, Los Angeles, Calif. 90054; Richfield Division, Atlantic Richfield Co., 645 South Mariposa Avenue, Los Angeles, Calif. 90005; Union Oil Co. of California, Post Office Box 1921, Phoenix, Ariz. 85001; Mobil Oil Corp., 612 South Flower Street, Los Angeles, Calif. 90054; American Oil Co., Post Office Box 6110-A, Chicago, Ill. 60680; and Humble Oil & Refining Co., Houston, Tex. 77001. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 103993 (Sub-No. 297 TA), filed September 6, 1967. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Robert G. Tessar (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Travel trailers, pick-up campers, and special purpose trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Natrona County, Wyo., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, for 180 days. Supporting shipper: Banner Homes Corp., Middlebury Street Road, Post Office Box 752, Elkhart, Ind. 46514. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 106904 (Sub-No. 13 TA), filed September 5, 1967. Applicant: TOPEKA MOTOR FREIGHT, INC., 4490 Lower Silver Lake Road, Topeka, Kans. 66618. Applicant's representative: D. S. Hults, Post Office Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Marysville, Kans., and Fairbury, Nebr., from Marysville over U.S. Highway 36 to junction Kansas Highway 15W, and thence over Kansas Highway 15W to Fairbury, and return over the same route, serving the intermediate points of Washington and Morrowville, Kans. Supporting shippers: Heber T. Powell, Traffic Manager, McPike, Inc., 1315 North Manchester, Kansas City, Mo.; Alan Paschang, Traffic Manager, Private Brands, Kansas City, Kans.; Robert Marble, Office Manager, Homelite Co., 4115 Penn Street, Kansas City, Mo.; William H. Snyder, Jr., Superintendent of Order Department, Bermingham-Prosser Co., 711 May Street, Kansas City, Mo.; Kenneth Bryant, Shipping Clerk, Stowe Hardware Co., 1322 West 13th Street, Kansas City, Mo. Send protests to: I. C. Peterson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans. 66603. NOTE: Applicant states it intends to tack, at Marysville, Kans., the authority applied for to other authority held by it.

No. MC 112098 (Sub-No. 12 TA), filed September 5, 1967. Applicant: LOS ANGELES TURF EXPRESS, a corporation, 1611 Easterly Terrace, Los Angeles, Calif. 90026. Applicant's representative: Carl H. Fritze, 1010 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses* other than ordinary and *personal effects of attendants, equipment, supplies, and mascots* used in the care and exhibition of such animals, between points in Arizona, Arkansas, California, Colorado, Louisiana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington, on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Wisconsin, and the District of Columbia, for 180 days. Supporting shippers: There

are approximately 12 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 113843 (Sub-No. 133 TA), filed September 6, 1967. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Yorkville, N.Y., to points in Illinois, Indiana, Michigan, and Ohio, for 180 days. Supporting shipper: Rich Plan Corp., 258 Genesee Street, Utica, N.Y. 13502. Send protests to: Richard D. Mansfield, District Supervisor, Interstate Commerce Commission, J. F. Kennedy Federal Building, Government Center, Boston, Mass. 02203.

No. MC 119619 (Sub-No. 6 TA), filed September 6, 1967. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43d Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: To transport: *Sliced meat, canned meat, and cheese*, between the facilities of J. S. Hoffman Co., at Moonachie, N.J., on the one hand, and, on the other, Chicago, Ill., and Monroe, Wis., for 180 days. Supporting shipper: J. S. Hoffman Co., Illinois at Orleans, Chicago, Ill. 60610. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse and Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 123778 (Sub-No. 8 TA), filed September 6, 1967. Applicant: JOSEPH BAIO, doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Lane, Woodbridge, N.J. 07095. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 12006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines*, for the account of Time, Inc., from Old Saybrook, Conn., to Mount Vernon, Yonkers, Bronx, and Carle Place, N.Y., for 180 days. Supporting shipper: Time, Inc., 330 East 22d Street, Chicago, Ill. 60616, Attention: G. C. Hillenbrand, Jr., Traffic Manager. Send protests to: Robert S. H. Vance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1060 Broad Street, Newark, N.J. 07102.

No. MC 126276 (Sub-No. 11 TA), filed September 6, 1967. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, Ill. 60463. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers*, from the plantsite of Crown Cork & Seal Co., Inc., at St. Louis, Mo., to South Bend, Ind., for 150 days. Supporting shipper: Crown Cork & Seal Co., Inc., 9300 Ashton Road, Philadelphia, Pa. 19136. Send protests to: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, 1086 U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 128247 (Sub-No. 3 TA), filed August 25, 1967. Applicant: BURSAL TRANSPORT, INC., Rural Route 1, Bunker Hill, Ind. 46914. Applicant's representative: Warren C. Moberly, 1212 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrodes* weighing approximately 2,500 lbs. each and palletized two to a pallet, from points in Tennessee and North Carolina to Kokomo, Ind., for 180 days. Supporting shipper: Continental Steel Corp., Kokomo, Ind. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 128634 (Sub-No. 2 TA), filed September 6, 1967. Applicant: FIRST SCOTT STREET CORPORATION, 249 Schweizer Place, Detroit, Mich. 48226. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts* as described in appendix I to the report in *Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766*, from Detroit, Mich., to points in California, Oregon, Washington, Nevada, Utah, New Mexico, Arizona, and Colorado, for 180 days. Supporting shipper: Great Markwestern Packing Co., 1825 Scott Street, Detroit, Mich. 48207. Send protests to: District Supervisor, Gerald J. Davis, Bureau of Operations, Interstate Commerce Commission, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

No. MC 129361 (Sub-No. 1 TA), filed September 5, 1967. Applicant: CARPENTER TRANSFER, INC., Box 161, Mankato, Minn. 56001. Applicant's representative: Grant J. Merritt, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, fruit drinks, and juices*, from North Mankato, Minn., to Storm Lake, Emmetsburg, and Estherville, Iowa, for 180 days. Supporting shipper: Marigold Dairies, Division of Marigold Foods, Inc., Mankato, Minn. 56001. Send protests to: C. H. Berquist, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-10817; Filed, Sept. 14, 1967; 8:46 a.m.]

COOPERATIVE AGREEMENTS WITH STATES

Acceptances of Terms

SEPTEMBER 12, 1967.

The following state authorities have filed written acceptance with this Commission of the terms for Cooperative Agreements with States as set forth in 49 CFR 277a (formerly 49 CFR 177a):

State authority	*Filing date*
Florida Public Service Commission	Jan. 10, 1967
Washington Utilities and Transportation Commission	Jan. 24, 1967
South Carolina Public Service Commission	Feb. 3, 1967
Alaska Transportation Commission	Feb. 8, 1967
Wisconsin Public Service Commission	Feb. 10, 1967
Georgia Public Service Commission	Feb. 13, 1967
Public Service Commission of Nevada	Do.
Wisconsin Motor Vehicle Department	Feb. 14, 1967
Mississippi Service Commission	Feb. 15, 1967
Department of Motor Transportation, Kentucky	Feb. 16, 1967
State Corporation Commission, Kansas	Feb. 20, 1967
Idaho Public Utilities Commission	Feb. 21, 1967
Public Service Commission of North Dakota	Feb. 23, 1967
Alabama Public Service Commission	Feb. 24, 1967
Department of Public Utilities, New Jersey	Do.
Louisiana Public Service Commission	Feb. 27, 1967
Arizona Corporation Commission	Feb. 28, 1967
Public Service Commission, Maryland	Mar. 2, 1967
Missouri Public Service Commission	Mar. 3, 1967
North Carolina Utilities Commission	Mar. 7, 1967
Illinois Commerce Commission	Mar. 10, 1967
Iowa Commerce Commission	Mar. 13, 1967
Wyoming Public Service Commission	Mar. 17, 1967
Tennessee Public Service Commission	Mar. 21, 1967
New Mexico State Corporation Commission	Do.
Public Utilities Commission of Ohio	Mar. 23, 1967
State Corporation Commission, Virginia	Mar. 24, 1967
Public Service Commission of Montana	Mar. 28, 1967
Pennsylvania Public Utility Commission	May 1, 1967
Maine Public Utilities Commission	May 25, 1967
Corporation Commission of Oklahoma	May 29, 1967
Nebraska State Railway Commisison	June 7, 1967
West Virginia Public Service Commission	June 22, 1967
Railroad Commission of Texas	July 12, 1967
Texas Department of Public Safety	Do.
Colorado Public Utilities Commission	July 19, 1967
South Dakota Public Utilities Commission	July 20, 1967
Public Service Board, Vermont	July 21, 1967
Arkansas Commerce Commission	Aug. 9, 1967

Public Service Commission, Minnesota ---------- Aug. 24, 1967

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-10855; Filed, Sept. 14, 1967; 8:49 a.m.]

[Notice 451]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 11, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 87720 (Sub. 70 TA), filed September 8, 1967. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Star Route A, Post Office Box 391, Flemington, N.J. 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, carpet remnants, and rugs* from Dalton, Ga., to points in Maryland, Pennsylvania, New Jersey, New York, Delaware, Connecticut, Rhode Island, Massachusetts, and the District of Columbia, under contract with American Biltrite Rubber Co., Inc., Boston, Mass., for 180 days. Supporting shipper: American Bilrite Rubber Co., Inc., Post Office Box 1071, Boston, Mass. 02103. Send protests to: District Supervisor, Raymond T. Jones, 410 Post Office Building, 402 E. State Street, Trenton, N.J. 08608.

No. MC 109637 (Sub-No. 327 TA), filed September 8, 1967. Applicant: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville, Ky. 40211. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules and resin powders*, in bulk, in tank vehicles, from rail-motor interchange points located in Jefferson County, Ky., and served by the Louisville & Nashville Railroad, to Bardstown, Ky., for 150 days. Supporting shipper: Frank S. Nagorney, supervisor, transportion cost analysis and controls; B. F. Goodrich Chemical Co., 3135 Euclid Avenue, Cleveland, Ohio 44115. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 124692 (Sub-No. 40 TA), filed September 8, 1967. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building board and materials used in the installation* thereof from Himes, Wyo., to points in Montana and South Dakota, for 180 days. Supporting shipper: Georgia-Pacific Corp., Post Office Box 311, Portland, Oreg. 97200. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-10856; Filed, Sept. 14, 1967; 8:49 a.m.]

[Notice 32]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 12, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69817. By order of September 8, 1967, the Transfer Board approved the transfer to Bethany Express, Inc., Bethany, Mo., of a portion of the operating rights in certificate No. MC-79619 issued July 13, 1967, to Eagle Express, Inc., Kansas City, Mo., authorizing the transportation of general commodities, with the usual exceptions, between specified points in Kansas and Missouri. Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo., attorney for applicants.

No. MC-FC-69848. By order of September 8, 1967, the Transfer Board approved the transfer to Bonita Motor Line, Inc., Kansas City, Mo., of a portion of the operating rights in certificate No. MC-79619 issued July 13, 1967, to Eagle Express, Inc., Kansas City, Mo., authorizing the transportation of general commodities, with the usual exceptions, between Kansas City, Kans., and Rich Hill, Mo. Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo., attorney for applicants.

No. MC-FC-69820. By order of September 9, 1967, the Transfer Board approved the transfer to Traylor Grain Sales, Inc., Loogootee, Ind., of the operating rights in certificates Nos. MC-124803, MC-124803 (Sub-No. 1), MC-124803 (Sub-No. 2), and MC-124803 (Sub-No. 3), issued July 9, 1963, January 13, 1966, March 16, 1965, and December 17, 1965, respectively, to Charles E. Traylor, doing business as Traylor Grain Sales, Loogootee, Ind., authorizing the transportation of: Commercial feed, from the plantsite of Ralston Purina Chow Co., Louisville, Ky., to points in southern Indiana; commercial feed and commercial feed ingredients, from Vandalia, Ill., to points in eight specified Indiana Counties; and malt beverages, from Peoria, Ill., Milwaukee, Wis., Evansville, South Bend, and Fort Wayne, Ind., Louisville, Ky., St. Louis, Mo., and Detroit, Mich., to points in Indiana south of U.S. Highway 40. John E. Lesaw, Lesaw & Lesh, 3737 North Meridian Street, Indianapolis, Ind., attorney for applicants.

No. MC-FC-69847. By order of September 8, 1967, the Transfer Board approved the transfer to Beverly Storage Co., Inc., New York, N.Y., of a portion of the certificate in No. MC-77064, issued November 5, 1956, to Leichtman Bros., Inc., New York, N.Y., authorizing the transportation of: Household goods, between New York, N.Y., on the one hand, and, on the other, points in New Jersey, Connecticut, Massachusetts, Rhode Island, Pennsylvania, and New York, except those in Nassau County, N.Y. Frank A. Rossini, 39-15 Main Street, Flushing, N.Y. 11354, attorney for transferor; Alvin Altman, 1776 Broadway, New York, N.Y. 10019, attorney for transferee.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-10857; Filed, Sept. 14, 1967; 8:50 a.m.]

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FEDERAL REGISTER

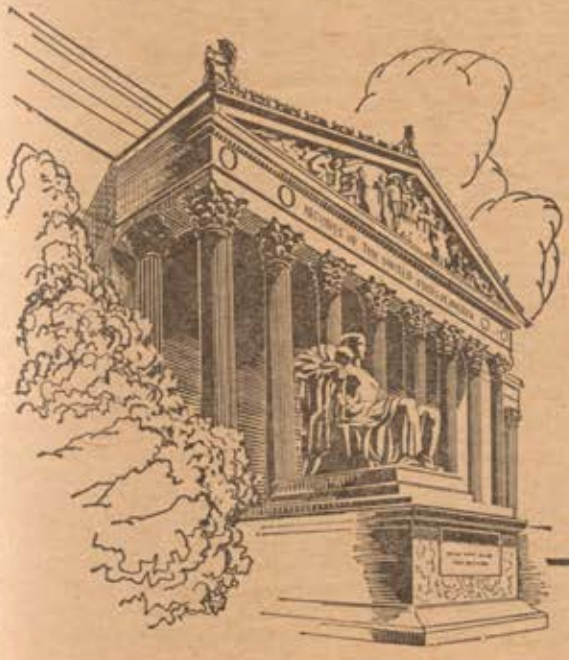
VOLUME 32 • NUMBER 179

Friday, September 15, 1967 • Washington, D.C.

PART II

Federal Communications Commission

Applicability of the Fairness Doctrine to Cigarette Advertising



Memorandum Opinion and Order

FEDERAL COMMUNICATIONS COMMISSION

[FCC 67-1029]

APPLICABILITY OF THE FAIRNESS DOCTRINE TO CIGARETTE ADVERTISING

Memorandum Opinion and Order

In the matter of Television Station WCBS-TV, New York, N.Y., RM-1170; FCC 67-1029.

1. The Commission has before it for consideration: A "Petition for Rulemaking" and a "Petition for Stay of Effectiveness of Application of Fairness Doctrine to Cigarette Advertising," filed on June 20, 1967, by the law firm of Smith, Pepper, Shack and L'Heureux on behalf of various broadcast clients; a letter dated June 23, 1967, from Columbia Broadcasting System, Inc. (CBS), requesting reconsideration of a ruling in the Commission's letter of June 2, 1967, to television station WCBS-TV; a "Petition for Reconsideration" and a "Petition for Immediate Stay of Effectiveness Pending Reconsideration by the Commission," filed on July 3, 1967, by the National Association of Broadcasters (NAB); a letter from Association of National Advertisers, Inc., dated June 29, 1967, requesting reconsideration of the ruling; petitions for reconsideration incorporating requests for stay, filed by the Tobacco Institute, Inc., et al., and WGN Cotninental Broadcasting Co., et al., on June 30, 1967, and July 3, 1967, respectively; and petitions or requests for reconsideration filed on July 3 and 5, 1967, by American Broadcasting Co., Inc. (ABC), National Broadcasting Co., Inc. (NBC), Storer Broadcasting Co., Griffin-Leake TV, Inc., et al., the law firm of Dow, Lohnes and Albertson on behalf of 17 broadcast licensees, and the law firm of Pierson, Ball and Dowd on behalf of the licensees of 61 radio and television stations. A petition for reconsideration was filed on August 1, 1967, by the Maryland/District of Columbia/Delaware Broadcasters' Association; and a "Statement of Position by Federal Communications Bar Association" on July 27, 1967.[1] Requests for reconsideration have also been received from several Congressional sources. A pleading in support of the Commission's ruling has been filed by the complainant, John. F. Banzhaf III; his pleading challenges the standing of the petitioners and many of the arguments advanced, and urges denial of the relief sought.[2] Petitioners seek rule making on, and reconsideration and recission of, a ruling in the Commission's letter of June 2, 1967, to television Station WCBS-TV, New York City, that the Fairness Doctrine is applicable to cigarette advertising (FCC 67-641), and a stay of the effectiveness of the ruling pending action on their petitions.

[1] In addition, the Commission has received various resolutions from State associations of broadcasters and numerous letters from the public.

[2] We do not find the arguments raised as to petitioners' standing persuasive.

2. Our ruling (FCC 67-641) was made on a complaint against Station WCBS-TV, New York, by Mr. John F. Banzhaf III, who asserted that this station, after having aired numerous comercial advertisements for cigarette manufacturers, had not afforded him or some other responsible spokesman an opportunity "to present contrasting views on the issue of the benefits and advisability of smoking." Specifically, he noted three cigarette advertisements broadcast on November 24, 1966, over WCBS-TV which presented smoking as "socially acceptable and desirable, manly, and a necessary part of a rich full life." Attached to the complaint was a letter by Mr. Banzhaf to the station requesting that free time be made available to "responsible groups" roughly approximate to that spent on the promotion of the "virtues and values of smoking." There was also attached a reply to Mr. Banzhaf by WCBS-TV setting forth the programs which it had broadcast on the effect of smoking on health, taking the position that these programs provided contrasting viewpoints on this issue, and stating its view that the Fairness Doctrine may be inapplicable to commercial announcements solely aimed at selling products. In Mr. Banzhaf's complaint, he asserted that the WCBS-TV showing of compliance with the Fairness Doctrine was insufficient to offset the effects of advertisements broadcast daily for a total of 5 to 10 minutes each broadcast day.

3. The Commission ruled that the Fairness Doctrine is applicable to cigarette advertisements, but rejected Mr. Banzhaf's claim that the time to be afforded roughly approximate that devoted to cigarette commercials. We held that a station which carries commercials promoting the use of a particular cigarette as attractive and enjoyable is required to provide a significant amount of time to the other side of this controversial issue of public importance—i.e., that however enjoyable, such smoking may be a hazard to the smoker's health. We stated that here, as in other areas under the Fairness Doctrine, the type of programing and the amount and nature of time to be afforded is a matter for the good faith, reasonable judgment of the licensee, upon the facts of his situation; and that accordingly the initial judgment as to whether sufficient time is being allocated each week in this area by WCBS-TV is one for the licensee.

4. By a letter to the Commission dated June 23, 1967, CBS requests that the contents of its letter be treated as the comments of WCBS-TV on the complaint and that the Commission reconsider its ruling on the basis of these comments. CBS does not request a stay of the effectiveness of the ruling, but does challenge the merits of the ruling.

5. In support of their requests for relief, other petitioners urge that the ruling has broad implications and will affect all licensees carrying cigarette advertising though they did not have an opportunity to be heard prior to its adoption. It is asserted that substantial doubts as to the validity of the ruling are presented by the various requests for reconsideration and other relief, and that licensees will not dare risk noncompliance pending action on these pleadings lest their noncompliance be raised at license renewal time. It is further asserted that licensees would suffer irreparable damage in the interim by temporarily adhering to the ruling because they would risk loss of substantial amounts of advertising revenue and compliance would disrupt station advertising policies as well as give rise to scheduling and production problems. Consequently, petitioners state, fairness and an equitable administration of the Fairness Doctrine call for a suspension of the effectiveness of the ruling pending action on the petitions for reconsideration and rule making.

6. We agree that the ruling constitutes a precedent on an important issue which will affect licensees other than WCBS-TV and may necessitate a change in the operations of some. In view of the widespread interest in the ruling by persons who have not hitherto been heard, and since stay relief has been requested, we have decided to give expeditious consideration to the arguments made in all of the pleadings before us to determine whether anything has been advanced on the merits which would warrant reconsideration of our ruling, a stay of its effectiveness, or rule making in this area. The positions of the parties appear to be amply set forth in the pleadings on file, and we have given thorough consideration to the arguments made in reaching our decision. For the reasons set forth below, it is the conclusion of this Commission that nothing has been advanced which would warrant reconsideration or a stay of our ruling or rule making. However, in the circumstances, we have decided for reasons of equity that the conduct of licensees (including WCBS-TV) in applying the Fairness Doctrine to cigarette advertising prior to the publication date of this memorandum opinion and order (which we shall also mail to all broadcast licensees) will not be considered in connection with their applications for renewal of license; conduct subsequent to that date will receive consideration, in specific rulings where appropriate or at license renewal time.

I. PETITIONERS' ARGUMENTS ON THE MERITS

7. The principal contentions presented on the merits of the ruling are: (A) That the Fairness Doctrine is itself violative of the First and Fifth Amendments to the U.S. Constitution and hence cannot properly serve as a basis for delineating licensee responsibilities under the Communications Act; (B) that the Fairness Doctrine, even if constitutional, applies only to programing in the nature of news, commentary on public issues, or editorial opinion, and does not extend to advertising; (C) that the Commission is precluded from applying the Fairness Doctrine to cigarette advertising because Congress has preempted the field and the Commission's ruling is contrary to Congressional policy; (D) that even if the Fairness Doctrine properly applies to cigarette advertising, the Commission has invalidly made a blanket ruling that

any cigarette advertisement per se presents a controversial issue of public importance, whereas no controversial issue of public importance can be presented where a lawful business is advertising a lawful product and, in the absence of any health claim in the commercial or affirmative discussion of the health issue, there is no viewpoint to oppose; (E) that the requirement that a significant amount of time be allocated each week to cover the viewpoint of the health hazard posed by smoking and the suggestion that a licensee might, inter alia, present a number of public service announcements of the American Cancer Society or the Department of Health, Education, and Welfare, will cause a debasement of the Fairness Doctrine generally and substitute Commission fiat for licensee judgment; (F) that the ruling cannot logically be limited to cigarette advertising alone; (G) that the ruling will have an adverse financial effect upon broadcast licensees by causing the cigarette industry to turn to other advertising media and will also have an adverse effect on the sale of cigarettes; and (H) that the ruling is in any event procedurally invalid for failure to accord interested persons an opportunity to be heard prior to the issuance of a novel and unprecedented policy determination. We shall carefully examine each of these contentions below and set forth in full our reasons for concluding that they lack merit.

A. Constitutionality of Fairness Doctrine

8. Those parties claiming that the Fairness Doctrine is violative of the First and Fifth Amendments to the Constitution incorporate by reference their comments to this effect in Docket No. 16574, In the matter of amendment of Part 73 of the Rules to Provide Procedures in the Event of a Personal Attack or Where a Station Editorializes as to Political Candidates.[3] By a memorandum opinion and order released on July 10, 1967 in that docket (FCC 67-795), the Commission rejected the contention as to the First Amendment. For the reasons and authorities there set forth, we adhere to that determination here.[4] The Fifth Amendment challenge was also rejected in Red Lion Broadcasting Co. v. Federal Communications Commission, Case No. 19,938 (C.A.D.C., decided June 13, 1967), and we see no valid distinction in the circumstances of this matter.[5]

B. Scope of Fairness Doctrine

9. In contending that the fairness Doctrine does not apply to advertising, the parties argue that the doctrine had its genesis in the 1949 Report of the Commission in the matter of Editorializing by Broadcast Licensees, 13 F.C.C. 1246, which was meant to apply only to dissemination of news, commentary on public issues, and editorial opinion because it contains no reference to advertising. It is further urged that no mention of advertising was made in the 1964 Fairness Primer, 29 F.R. 10415, and that the Commission has never interpreted the doctrine as applying to advertising. In addition, it is asserted that Congress, in giving specific approval to the Fairness Doctrine as a basic delineation of a standard of public interest in broadcasting in the 1959 amendment of section 315(a) of the Communications Act, 73 Stat. 557, 47 U.S.C. 315(a), limited the scope of the doctrine to programing of that nature since it did not amend section 317 of the Act to incorporate a similar provision. It follows, the parties state, that the present ruling is an unprecedented extension of the Fairness Doctrine which is beyond the Commission's discretion or statutory authority.

10. We do not find these arguments persuasive. The Fairness Doctrine has its foundation in the obligation imposed on licensees by the Communications Act to operate in the public interest (see discussion, infra, par. 64), which includes the "basic policy of the 'standard of fairness' " and the "broad encompassing duty of providing a fair cross section of opinion in the station's coverage of public affairs and matters of public controversy." H. Rept. No. 1069, 86th Cong., 1st sess., p. 5; S. Rept. No. 562, 86th Cong., 1st sess., p. 13; section 315(a); 1949 Report on Editorializing, 13 F.C.C. 1246, 1248-1249. That "one of the basic elements of any such operation" (13 F.C.C. at 1248) is a recognition by the licensee of "the right of the public to be informed" (13 F.C.C. at 1249) as to "opposing positions on the public issues of interest and importance in the community" (13 F.C.C. at 1258) when the licensee is presenting programing in the nature of news, commentary on public issues, or editorial opinion, does not mean that the licensee is relieved of his statutory responsibility for advertising broadcast over his facilities or his overall duty to operate in the public interest and to make a fair presentation of controversial issues of public importance in whatever context they may arise. Section 315(a); 1949 Report on Editorializing, 13 F.C.C. at 1257-1258. Moreover, the circumstance that Congress specifically incorporated in the Fairness Doctrine into the 1959 amendment to section 315 to make it "crystal clear" that the programing exemptions from the equal time requirement of that section did not exempt licensees "from objective presentation thereof in the public interest" does "not diminsh or affect in any way Federal Communications Commission policy or existing law which holds that a licensee's statutory obligation to serve the public interest is to include the broad encompassing duty of providing a fair cross section of opinion in the station's coverage of public affairs and matters of public controversy." S. Rept. No. 562, 86th Cong., 1st sess., p. 13; 105 Cong. Rec. 14439.[6] Most important, the amendment refers to the obligation imposed upon broadcast licensees" * * * *under this Act* to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance" (emphasis supplied).

11. The Commission's present ruling that advertising falls within the public interest responsibilities of a licensee is not a novel or unprecedented policy determination. See concurring opinion of Mr. Justice Brennan in Head v. Board of Examiners, 374 U.S. 424, 437-441. This opinion sets out in detail the administrative and other pertinent history establishing the pattern of Commission regulation in this area. See paragraph 13, infra.

12. The Commission has always directed itself particularly to programing and advertising which bears upon public health and safety. The Federal Radio Commission denied a renewal of license to a station which broadcast a "medical question box" devoted to diagnosing and prescribing treatment of illnesses from symptoms given in letters from listeners, and which received a rebate on each prescription sold. KFKB Broadcasting Association v. Federal Radio Commission, 47 F. 2d 670, 671 (C.A.D.C.). The Radio Commission held, with judicial approval, that "the practice of a physician's prescribing treatment for a patient whom he has never seen, and bases his diagnosis upon what symptoms may be recited by the patient in a letter addressed to him,

[3] This contention is made by the NAB, the law firm of Pierson, Ball and Dowd, and WGN Continental Broadcasting Co., et al. The petition for rule making filed by Smith & Pepper states that it does not address itself to the question of whether Red Lion Broadcasting Co. v. Federal Communications Commission, Case No. 19,938 (C.A.D.C., June 13, 1967), is good law.

[4] Since advertising, although not wholly beyond the First Amendment, enjoys less protection than other speech (See Murdock v. Pennsylvania, 319 U.S. 105, 110-111; Valentine v. Chrestenson, 316 U.S. 52, 54; Martin v. Struthers, 319 U.S. 141, 142, note 1; Beard v. Alexandria, 341 U.S. 622, 641-643), the Commission's power to regulate advertising by radio may, indeed, be broader than it is with respect to programing. See Head v. Board of Examiners, 374 U.S. 424, 430-431, 437-441 (advertising), and cf. Farmers Union v. WDAY, 360 U.S. 525, 529-530 (political broadcasts); Henry v. Federal Communications Commission, 302 F. 2d 191, 194 (C.A.D.C.), cert. den. 371 U.S. 821 (entertainment).

[5] Insofar as it is asserted that due process has not been accorded, we believe that our extensive consideration of the pleadings filed since the ruling meets the requirements of due process in view of the nature of the issue and the arguments relating thereto (see pars. 55-58, infra). The conduct of licensees prior to the publication of this memorandum opinion and order will not be considered adversely when the question of renewal of license arises.

[6] Given the background to the 1959 amendments (see Red Lion Broadcasting Company v. Federal Communications Commission, supra), we are unable to see any significance in the fact that Congress did not also amend sec. 317 to incorporate the Fairness Doctrine expressly. In any event, as stated, the absence of a specific reference to the Fairness Doctrine in sec. 317 does not show a lack of Commission authority under the general provisions of the Act.

is inimical to the public health and safety, and for that reason is not in the public interest." Id., at 671–672. The Communications Commission has similarly condemned advertising of alleged medical prescriptions and quack remedies which were deemed inimical to health, and granted renewal only upon assurances that such broadcasting would be discontinued. Farmers and Bankers Life Insurance Co., 2 F.C.C. 455, 457–459. The Commission stated that "[a] broadcast station carrying such programs should be held to a high degree of responsibility, affecting as they may the health and welfare of the listeners, and careful investigation of such products, and of the claims made therefor, should be made before they are advertised over a broadcast station." 2 F.C.C. at 458. See also WSBC, Inc., 2 F.C.C. 293, 294–296, and Oak Leaves Broadcasting Station, Inc., 2 F.C.C. 298 (both involving advertising of quack medicines by one not licensed to practice medicine). The Commission has also applied the Fairness Doctrine to products such as Krebiozen and to the health issues involved in Carlton Fredericks program, "Living Should be Fun." See 33 F.C.C. 101, 107 (1962).[7]

13. Mr. Justice Brennan, in his concurring opinion in the Head case, 374 U.S. at 439, noted that:

> * * * As early as 1928, for example, the General Counsel of the Radio Commission held that abuses in network cigarette advertising—while not a sufficient basis for revocation proceedings against an individual licensee—might on renewal militate against the requisite finding of broadcasting in the "public interest."

The opinion also notes (n. 15) that:

> Shortly after the issuance of the General Counsel's opinion, the Chairman of the Federal Radio Commission was asked by Senator Dill during his appearance before the Senate Commerce Committee whether he thought the Commission had sufficient power "through its power of regulation and its determination of public interest to handle objectionable advertising?" The Chairman replied, "I think so, Senator Dill, because we have had little trouble about it, even without direct power. * * *." Hearings before Senate Committee on Interstate Commerce on S. 6, 71st Cong., 1st sess., pt. 6, p. 230.

See also Hearings before Senate Committee on Interstate Commerce on S. 6, 71st Cong., 1st and 2d sess., pp. 88–89. The particular complaint leading to the General Counsel's opinion charged, inter alia, that "the object of this broadcasting is to transform 20 million adolescent boys and girls into confirmed cigarette addicts by creating a vast child market for cigarettes in the United States," that "10 million boys throughout the country are being viciously and deliberately misled by paid testimonials, secured from professional athletes, football coaches and others, definitely suggesting the use of cigarettes as an aid to physical prowess," that "the medical opinion of the country is being continuously misrepresented to support the health and medical claims made for cigarettes," that the specific claims made for a particular brand of cigarette advertised on the air are overwhelmingly opposed by established health and medical facts," and that "Such radio activities, the petitioner maintains, are clearly contrary to public interest, public welfare and public health." Opinion No. 32, 1928–1929 Opinions of the General Counsel, Federal Radio Commission, 77, at 78 (Apr. 15, 1929). General Counsel Bethuel M. Webster, Jr. concluded that the "Commission may find, in view of this showing, that public interest, convenience, and necessity will not be served by further renewal of the licenses in question, in which case the matter will be set for hearing pursuant to section 11, and petitioner's prayer for general relief will be granted." Id., at 82.

14. In short, we believe that the licensee's statutory obligation to operate in the public interest includes the duty to make a fair presentation of opposing viewpoints on the controversial issue of public importance posed by cigarette advertising (i.e., the desirability of smoking), that this duty extends to cigarette advertising which encourages the public to use a product that is habit forming and, as found by the Congress and Governmental reports, may in normal use be hazardous to health, and that the licensee's compliance with this duty may be examined at license renewal time (see 1960 Programing Policy Statement, 20 Pike and Fischer, Radio Regulation 1901, 1912–1913). It is our belief that the public interest standard and Fairness Doctrine embodied this principle from their inception. In any event, even assuming the contrary, we think that the Commission clearly has the statutory authority to make this public interest ruling and to extend the Fairness Doctrine to cigarette advertising at this time. While the agency's position as to what the obligation to operate in the public interest requires for cigarette advertising may have fluctuated over the years since 1929, the exercise of such authority in the present circumstances is plainly reasonable. Considering the 1964 Report of the Surgeon General's Advisory Committee, the establishment of the National Interagency Council on Smoking and Health and the enactment of Cigarette Labeling and Advertising Act (Public Law 89–92, 15 U.S.C. 1331 et seq.) in 1965, and the recent Reports to Congress by the Federal Trade Commission and the Department of Health, Education, and Welfare pursuant to that Act, it is not an abuse of discretion for the Commission to decide now that a licensee who presents programing and advertising which encourages the public to form this habit potentially hazardous to health has, at the very least, an obligation adequately to inform the public as to the possible hazard.[8] See infra, paragraphs 30–32. Nothing that is presented in the extensive pleadings filed in this matter convinces us that petitioners should prevail on their position to the contrary.

C. Compatibility With the Cigarette Labeling Act

15. Petitioners further urge that Congress in the Cigarette Labeling and Advertising Act of 1965 (Public Law 89–92, 15 U.S.C. 1331 et. seq.) preempted Federal, State, and local activity to compel health warnings in cigarette advertising, and that the Commission's ruling is not only inconsistent with that policy but lies also in an area where Congress has withdrawn authority. On the basis of our analysis of the provisions of the Labeling Act and its legislative history, we agree that no Federal or State body could legally adopt regulatory measures which would require either a cessation of cigarette advertising or the inclusion of a health warning in the advertisement itself. We nevertheless believe, for the reasons set forth below, that our ruling that broadcast licensees presenting cigarette advertising must otherwise inform the public as to the potential health hazard, is not precluded by the Labeling Act and is entirely consistent with the Congressional decision to promote extensive smoking education campaigns.

16. The Cigarette Labeling Act states that:

> It is the policy of the Congress, and the purpose of this Act, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby—
>
> (1) The public may be adequately informed that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes; and
>
> (2) Commerce and the national economy may be (A) protected to the maximum extent consistent with this declared policy and (B) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

The Act thus requires the labeling of cigarette packages with the statement: "Caution: Cigarette Smoking May Be Hazardous to Your Health." The Act also does the following: (1) Makes it unlawful for any person to manufacture, import, or package for sale within the United States any cigarettes which do not bear the above-mentioned statement on the package. Violation of this requirement is made a misdemeanor subject to a fine of not more than $10,000 (sec. 4, 6); (2) prohibits the requirement of any

[7] As further administrative background in this area, see In re petition of Sam Morris, 11 FCC 197 (1946), where the Commission indicated the applicability of the Fairness Doctrine to advertising in certain situations.

[8] It has long been recognized, of course, that "the Commission's view of what is best in the public interest may change from time to time. Commissions themselves change, underlying philosophies differ, and experience often dictates changes." Pinellas Broadcasting Co. v. Federal Communications Commission, 230 F. 2d 204, 206 (C.A.D.C.), cert. den., 350 U.S. 1007.

other cautionary statement on the labeling of cigarettes under laws administered by any Federal, State, or local authority (sec. 5(a)), and prohibits, for 3 years, any requirement by any Federal, State, or local authority that cigarette advertising include a statement relating to smoking and health (sec. 5(b)); (3) states that the Federal Trade Commission has no authority to require any cautionary statement in any advertisement of cigarettes labeled in conformity with the Act, but otherwise neither limits nor expands the authority of the FTC with respect to the dissemination of false or misleading advertisements of cigarettes (sec. 5(c)); (4) permits injunctions to be obtained to restrain violations of the Act, and provides an exemption for cigarettes manufactured for export from the United States (sec. 7 and 8); and (5) requires two Federal agencies to transmit reports to Congress before July 1, 1967, and annually thereafter: (a) The Secretary of Health, Education, and Welfare concerning current information on the health consequences of smoking and recommendations for legislation and (b) the Federal Trade Commission concerning the effectiveness of cigarette advertising, current practices and methods of cigarette advertising and promotion, and recommendations for legislation.

16a. Section 5—the portion preempting Federal, State and local activity to compel health warnings in cigarette labeling and advertising—provides in subsection (b):

> No statement relating to smoking and health shall be required in the advertising of any cigarette the packages of which are labeled in conformity with the provisions of this Act.

It is clear from the wording of this section that neither the FCC nor the FTC could require cigarette advertisements to contain statements of health warnings. However, this does not mean that the FCC or the FTC cannot regulate in other respects concerning smoking and health. The section does not read, as petitioners would have it, that no statement by others interested in informing the public of the potential hazard from smoking may be required "because of the advertising of any cigarette"—i.e., not in or adjacent to the advertising but at some other time period, by others or the licensee, because the advertising has presented but one face of this important issue to the public. Moreover, although the Senate debate on the Labeling Act is not wholly clear in this respect,[9] the House debate indicates that the FTC is still free to regulate with respect to misleading or deceptive advertising concerning smoking and health under section 5 of the Federal Trade Commission Act.[10] For example, if an advertisement said that cigarette smoking was not a health hazard, the FTC could act to prevent such advertising. The Chairman of the House Commerce Committee explained that the Labeling Act did not purport to change the present authority of the FTC, only to limit that authority with respect to compulsory inclusion of statements concerning smoking and health in cigarette labels and advertising.[11] See section 5(c) of the Act. The FCC's regulatory authority was not discussed in the committee reports on the proposed legislation or in the legislative debates. Nevertheless the background and legislative history of the Labeling Act furnish some basis for judging what impact, if any, that Act has on the FCC's authority in this field, particularly under the Fairness Doctrine.

LEGISLATIVE HISTORY

17. The pertinent background to the 1965 Act is set out in Appendix A. We turn here to the relevant legislative history. Prior to 1964 a number of bills had been introduced without enactment by Congress in an effort to compel cigarette manufacturers to acquaint the public in various fashions with the health hazards of smoking. With the Advisory Committee's Report as a catalyst, many bills were introduced during the second session of the 88th Congress embodying several approaches to acquaint the public with the hazards of smoking: (1) To require that cigarettes sold in interstate commerce be labeled with a health warning, and/or with a disclosure of nicotine and tar content (H.R. 4168; H.R. 7476; H.R. 9693); (2) to confer on the FTC the power and duty to regulate advertising and labeling of cigarettes (H.R. 9655; H.R. 9657; H.R. 9808; S. 2429); (3) to amend the Federal Food, Drug and Cosmetic Act so as to make that Act applicable to smoking (H.R. 5973; H.R. 9512); (4) to provide for informational and educational campaigns by HEW to acquaint the public with the health hazards involved in the use of cigarettes and to provide for continued research in this field (H.R. 9668; S. 2430); and (5) to enjoin all Government agencies, etc., from taking any action or pursuing any policy which encourages or promotes the public to buy or use cigarettes (S. 2430).

18. As a result of the submission of these bills, Chairman Harris conducted hearings from June 23, 1964, through July 1, 1964, before the House Commerce Committee concerning possible action by Congress. The purposes of the hearings were to review the scientific evidence of the causal link between smoking and cancer and, if Federal action was found to be required in the interest of public health, to determine what approach would be most desirable. Chairman Harris commented later that the closing days of that session of Congress had not permitted sufficient time for further hearings and for the preparation and consideration of carefully drawn legislation in this field. These hearings before the House Commerce Committee were the only hearings conducted on the subject of cigarette labeling and advertising by either side of Congress during the second session of the 88th Congress.

19. Legislative activity resumed in the first session of the 89th Congress with consideration of bills taking three basic approaches to the smoking health hazard problem: (1) To amend the Federal Food, Drug and Cosmetic Act to regulate smoking products (H.R. 2248); (2) to provide for a health warning and/or nicotine and tar content on the label of cigarette packages (S. 559; H.R. 3014; H.R. 4007; H.R. 7051; H.R. 4244); and (3) to give the FTC the power and duty to regulate advertising and labeling of cigarettes (S. 547). Both the Senate and the House Commerce Committees undertook hearings to determine the state of the medical evidence for and against the causal link between smoking and disease and to determine what Federal action, if any, should be required in the public interest. With regard to these questions, the Senate Committee concluded (S. Rept. No. 195, 89th Cong., 1st sess., p. 3):

> While there remain a substantial number of individual physicians and scientists—the Commerce Committee received testimony from 39 of them—who do not believe that it has been demonstrated scientifically that smoking causes lung cancer or other diseases, no prominent medical or scientific body undertaking a systematic review of the evidence has reached conclusions opposed to those of the Surgeon General's Advisory Committee.
>
> The Commerce Committee, therefore, concurs in the judgment that "appropriate remedial action" is warranted.

The House Committee was unwilling to conclude for or against the medical opinions embodied in the Advisory Committee's Report or the medical evidence elicited by its own hearings. However, it did conclude that Congressional action should be taken with regard to the relationship of smoking and health (H. Rept. No. 449, 89th Cong., 1st sess., p. 3).

20. As petitioners point out, Congress in enacting the Cigarette Labeling Act was concerned about possible economic impact on the tobacco and broadcasting industries, as well as the potential health hazard to the public. The House Report states (id., at p. 3):

> The determination of appropriate remedial action in this area, as recommended by the Surgeon General's Advisory Committee, is a responsibility which should be exercised by Congress after considering all facets of the problem. The problem has broad implications in the field of public health and health research, and involves potentially far-reaching consequences for a number of sectors of our economy. The entire tobacco raising and manufacturing industry, and the numerous businesses which market tobacco products are involved. Some proposals have been made in this area which might lead to severe curtailing or the possible elimination of cigarette advertising. This could have a serious economic impact on the television, radio, and publishing industries in the United States.

21. The compromise evolved by Congress was to require a health warning in labeling, but not in advertising, for an interim period pending a further Congressional determination as to whether extensive smoking education campaigns and industry self-discipline would render such a drastic step unnecessary. The Senate Report states (S. Rept. No. 195, 89th Cong., 1st sess., p. 5):

[9] 111 Cong. Rec. 15597-15598 (1965).
[10] 111 Cong. Rec. 16541-16544 (1965).
[11] Remarks of Chairman Harris, 111 Cong. Rec., p. 16544 (1965).

Considering the combined impact of voluntary limitations on advertising under the Cigarette Advertising Code, the extensive smoking education campaigns now underway, and the compulsory warning on the package, which will be required under the provisions of this bill, it was the Committee's unanimous judgment that no warning in cigarette advertising should be required pending the showing that these vigorous, but less drastic, steps have not adequately alerted the public to the potential hazard from smoking.

The House Report similarly states that the Cigarette Advertising Code and the educational and informational programs of HEW in combination with the Labeling Act made it unnecessary to insert health warnings in cigarette advertising as proposed by the FTC (H. Rept. No. 449, 89th Cong., 1st sess., pp. 4, 5). The Labeling Act provides that the provisions which affect the regulation of advertising shall terminate on July 1, 1969 (sec. 10). The reason for specifying this termination date was the expectation of Congress that before that date, on the basis of all available information, including that contained in the reports to be submitted by HEW and FTC, it would reexamine the subject matter of the Labeling Act.

CONCLUSION

22. In light of the foregoing, it is our view that section 5 of the Labeling Act was meant to preclude any requirement of a health warning in the advertising itself, as proposed by the FTC rule (see par. 7, App. A), but there was no legislative intent otherwise to foreclose the use of radio, along with other educational media, as an effective means of informing the public to the potential hazard of smoking. The Fairness Doctrine has its reason for being in (1949 Report on Editorializing, 13 F.C.C. at 1249):

* * * the paramount right of the public in a free society to be informed and to have presented to it for acceptance or rejection the different attitudes and viewpoints concerning these vital and often controversial issues which are held by the various groups which make up the community. It is this right of the public to be informed, rather than any right on the part of the Government, any broadcast licensee or any individual member of the public to broadcast his own particular views on any matter, which is the foundation stone of the American system of broadcasting. (Footnote omitted.)

We also cannot believe that Congress would have overturned so basic a tenet of communications law and policy in this area or that it would have withdrawn so fundamental a responsibility of the Commission without some express indication and explanation. See paragraph 30, infra. On the contrary we believe that for reasons developed below, our action is entirely consistent with the "comprehensive Federal program * * *" (sec. 2, Cigarette Labeling Act), since it will promote the "extensive education campaigns," which Congress noted and relied upon in reaching the policy judgment embodied in the Act (see par. 21, supra).

23. As stated, our ruling accords with and is tailored to the legislative policy embodied in the Labeling Act. In the first place, the ruling does not require a health warning in or adjacent to cigarette advertising—a matter coming within section 5(b) of the "preemption" portion of the Act. Rather it leaves to the good faith, reasonable judgment of the licensee—upon the facts of his situation—the matters of the type of programing, the nature of the time to be afforded for the opposing viewpoint, and the amount of time to be allocated on a regular basis.

24. Second, our ruling does not preclude or curtail presentation by stations of cigarette advertising which they choose to carry (see also, pars. 48–54, infra). We rejected Mr. Banzhaf's claim that the time afforded for the opposing viewpoint should "roughly approximate" that devoted to cigarette advertising, not only because the Fairness Doctrine does not require "equal time" but also in the belief that this would be inconsistent with the Congressional direction in this field provided in the Labeling Act. For, we recognized that the "practical result of any roughly one-to-one correlation would probably be either the elimination or substantial curtailment of broadcast cigarette advertising." We stressed that our action would be tailored so as to carry out the Congressional purpose, and we shall of course adhere to that guideline in implementation of the ruling.

25. Most important, we think that our ruling implements the smoking education campaigns referred to as a basis for Congressional action in the Labeling Act (supra, par. 21). Congress itself has affirmatively promoted such educational efforts by appropriating $2 million for use by HEW in this direction. P.L. 89–156, Title II, Public Health Services, Chronic Diseases and Health of the Aged. As a consequence, HEW has established the National Clearinghouse for Smoking and Health. Its purposes are to collect, organize, and disseminate information on smoking and health, to provide encouragement and support for State and local educational activities, and to conduct research into the behavioral nature of the smoking habit. The Public Health Service and others have acted to inform the public on smoking and health directly by sending lecturers across the United States to address local groups, distributing printed information to the public, and furnishing the broadcast media with spot announcements on smoking and health. The Public Health Service reported in January 1967 that it has distributed spot announcements to over 900 radio stations and is at present approaching individual television stations to obtain further coverage for its messages. The American Cancer Society reports that it has received favorable responses from all the networks and many independent stations concerning the promotion of its spots on smoking and health.

26. The Public Health Service has also worked through local organizations to warn the public of the health hazards of smoking. It is in direct contact with a number of regional, State, or local interagency advisory committees on smoking and health, which have worked to stimulate community interest in 35 States. As a result of this stimulus and others, the medical societies of at least 18 States have made statements linking cigarette smoking with lung cancer and other health hazards and, in some cases, have undertaken organized activity to publicize the relationship of smoking and health. For example, the California Medical Association has recently undertaken a program urging individual doctors to acquaint their patients with the health hazards of smoking. Local and statewide civic groups have also started public education efforts.

27. The Public Health Service and the U.S. Children's Bureau have directed a special education campaign aimed at school age children. To date, school programs on smoking and health reach about 70 percent of the school children in the United States. Forty States have developed materials on smoking and health for children or plan to do so, and 27 States have either held conferences on smoking and health or intend to do so. In September 1966 a nationwide program to discourage smoking among seventh and eighth graders was launched by the National Congress of Parents and Teachers. This plan is being supported by the Public Health Service and is operating in 21 States.

28. The affected industries have renewed their efforts at self-regulation since the enactment of the Labeling Act. While there has been no change in the Cigarette Advertising Code of the cigarette manufacturers, they have sought and obtained FTC approval to make factual advertising statements about tar and nicotine content. On March 25, 1966, the FTC determined that a factual statement of the tar and nicotine content of the mainstream smoke from a cigarette would not be in violation of that Commission's 1955 Cigarette Advertising Guides or of any provision of the law adminstered by the Commission. However, no collateral statements (other than the factual statement of tar and nicotine content of cigarettes) suggesting the reduction or elimination of health hazards in smoking are allowed, and all these factual statements must be based upon a standardized testing technique.[12]

29. In October 1966 the Code Authority for the NAB issued the Cigarette Advertising Guidelines which they had announced during the 1965 Senate hearings

[12] New York Times, Mar. 29, 1966, 53:6.

would be forthcoming.[29] The main objectives of the guidelines are to restrict advertising appeals to youth and statements concerning the health benefits of smoking. In January 1967, the Code Authority announced in a news release a slight change in the Television Code to strengthen its position as to appeals to youth. The Television Code, section IX, General Advertising Standards, paragraph 7, now reads:

The advertising of cigarettes shall not state or imply claims regarding health and shall not be presented in such a manner as to indicate to youth that the use of cigarettes contributes to individual achievement, personal acceptance or is a habit worthy of imitation.

30. Considering these affirmative efforts by Congress, Federal, State and local public and private agencies, and the affected industries to educate the public as to the smoking health hazard and, particularly, to discourage youth from forming the habit, we are not persuaded by petitioners' argument that HEW and FTC have primary jurisdiction in this matter and that this Commission alone is precluded from following its traditional method of assuring that the public is adequately informed as to both sides of this controversial issue of public importance. Significantly, Congress was at pains to spell out what was preempted (secs. 5 (a) and (b)), and specifically stated that except as is otherwise provided in subsections (a) and (b), "nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes * * *." Similarly, we believe that there was no preclusion of FCC action, so long as such action is consonant with the "comprehensive Federal program * * *" (sec. 2). As set forth in the prior discussion, we think that our responsibilities and policies under the Communications Act and our ruling herein are entirely consonant with the Congressional objectives in this area. Indeed, it is our belief that the Commission could not properly follow any other course in this matter. For this Commission, like other administrative agencies, was "not commissioned to effectuate the policies" of the Communications Act "so single-mindedly that it may wholly ignore other and equally important Congressional objectives. Frequently the entire scope of Congressional purpose calls for careful accommodation of one statutory scheme to another and it is not too much to demand of an administrative body that it undertake this accommodation without excessive emphasis upon its immediate task." Southern S.S. Co. v. Labor Board, 316 U.S. 31, 47.

31. One further contention of petitioners on this aspect warrants discussion. It is asserted that we are precluded from issuing our ruling because the Commission declined to make any recommendation to Congress in connection with the Labeling Act legislation on the ground that it had not yet studied the matter, and because the Commission still has not conducted any study or proceeding on the smoking hazard issue. The circumstances giving rise to the contention are as follows: Prior to the issuance of the Advisory Committee Report, the Commission stated in a "by direction" letter, concerning possible rule making with regard to advertising, promoting, or encouraging cigarette smoking among young people, that action would be inappropriate before the Advisory Committee's Report was available and (Letter to Senator Magnuson, FCC 63-1033):

The Commission's concern is limited, of course, to advertising in the broadcast field. Other agencies may have authority to take comprehensive and effective action, if necessary or appropriate. It is, we think, obviously more desirable to treat such an important matter, if possible, on a broad, across-the-board basis rather than in piecemeal fashion.

When the Advisory Committee's Report was issued and the FTC had announced its rule making proceeding concerning cigarette labeling and advertising (see App. A), the Commission on January 1964 initiated plans to coordinate its efforts with the comprehensive regulation which the FTC had proposed and with activities of other interested agencies. FCC Letter to FTC Chairman Dixon, FCC 64-29 (Jan. 15, 1964). On February 7, 1964, in "by direction" letters to Congressman Leonard Farbstein (FCC 64-100) and his constituent, Mr. Sidney Katz (FCC 64-99), then Chairman Henry answered a request to institute rule making proceedings to ban cigarette advertising by reiterating the policy statement quoted above and noting that the Commission would await the results of the FTC rule making proceeding before acting in this area. When asked to comment on S. 2429, 88th Cong., and S. 547 and S. 559, 89th Cong., the Commission reiterated its policy that it favored "across-the-board treatment of the matter of regulating cigarette advertising and that since the FTC had undertaken a comprehensive remedial regulatory plan, the FCC had not held proceedings or undertaken studies to evaluate the various factors and considerations in this area. Comments on S. 2429, 88th Cong., FCC 64-730; comments on S. 559 and S. 547, FCC 65-96.

32. We do not believe that these facts preclude us, as a matter of law or of policy, from issuing our ruling in the present circumstances. First, as shown above, circumstances have changed. The FTC, while proceeding in other respects consistent with the 1965 Act, is not, of course, undertaking its comprehensive regulatory plan to require a health hazard announcement to accompany each cigarette commercial. Second, as also shown above, our ruling is consistent with and particularly suited to promoting the "across-the-board" objective of Congress to treat this matter through extensive campaigns to educate the public as to the hazards of smoking. Third, we did not defer to the FTC as a matter of legal authority but rather of policy. The Commission is not precluded from changing its policies so long as any new policy adopted is, like our ruling, reasonable in the circumstances. See supra, paragraph 14 and footnote 8. And, finally, studies by this Commission are clearly not required to evaluate the various factors and public interest considerations posed by the issue of smoking and health, particularly since Congress declared and pursued its policy of promoting smoking education campaigns. In this connection, see also the discussion below (pars. 33-34 and 60-62).

33. On July 12, 1967, HEW submitted its Report to Congress, which includes the Surgeon General's Report on Current Information on the Health Consequences of Smoking. Upon the basis of more than 2,000 research studies that have been completed and reported in the biomedical literature throughout the world in the intervening 3½ years since the Advisory Committee's Report, the Surgeon General states that there is no evidence calling into question the conclusions of the 1964 Report and, on the contrary, the research studies published since 1964 have strengthened those conclusions. The Surgeon General summarizes the present state of knowledge of these health consequences, in the judgment of the Public Health Service, as follows (Surgeon General's Report on the Health Consequences of Smoking—1967, p. 2):

1. Cigarette smokers have substantially higher death rates and disability than their nonsmoking counterparts in the population. This means that cigarette smokers tend to die at earlier ages and experience more days of disability than comparable nonsmokers.

2. A substantial portion of earlier deaths and excess disability would not have occurred if those affected had never smoked.

3. If it were not for cigarette smoking, practically none of the earlier deaths from lung cancer would have occurred; nor a substantial portion of the earlier deaths from chronic bronchopulmonary

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[29] *Text of the New Cigarette Advertising Guidelines:*

Athletic activity. A person who is or has been a prominent athlete shall not be used in a cigarette commercial. Cigarette commercials shall not depict persons participating in, or appearing to be participants in, sports or athletic activity requiring physical exertion.

Tar and nicotine statements. Factual statements of tar and nicotine content of cigarettes are subject to proper documentation. No statements or claims regarding benefits to health and well-being are acceptable.

Filters. Cigarette advertising shall not state that because of the presence of the filter or its construction the cigarette is beneficial to the health or well-being of the smoker.

Uniformed individuals. Individuals in certain types of uniforms have a special appeal to youth. Therefore, such uniformed individuals as commercial pilots, firemen, the military and police officers shall not be used in cigarette advertising.

Premiums. Cigarette advertising shall not include references to offers of premiums which are primarily designed for youth.

Portrayal of youth. Children or youth shall not appear in cigarette commercials in any manner, even though they are merely bystanders or part of the background. Cigarette advertising shall use individuals who both are and appear to be adults and who are shown in settings associated with adults.

diseases (commonly diagnosed as chronic bronchitis or pulmonary emphysema or both); nor a portion of the earlier deaths of cardiovascular origin. Excess disability from chronic pulmonary and cardiovascular diseases would also be less.

4. Cessation or appreciable reduction of cigarette smoking could delay or avert a substantial portion of deaths which occur from lung cancer, a substantial portion of the earlier deaths and excess disability from chronic bronchopulmonary diseases, and a portion of the earlier deaths and excess disability of cardiovascular origin.

In releasing the Report, HEW Secretary John W. Gardner stated (HEW Press Release for July 13, 1967):

> The relationship between smoking and health has obvious and serious implications for individuals who now smoke and for young people who may be thinking of starting to smoke. From the standpoint of public policy and social concern, this association constitutes one of the most critical health problems today.
>
> It is perfectly obvious that if we are going to reduce the unnecessary death and illness now caused by cigarette smoking, three things must take place: There must be a reduction in the number of people who smoke, a number which now constitutes 42 percent of our population. We must do everything we can to encourage young people not to start smoking; at present, half of our young people are cigarette smokers by the time they are 18. And finally, we must work toward the development of a less hazardous cigarette and, concurrently, help develop a climate of opinion which will encourage acceptance if such a cigarette is developed.

34. The June 30, 1967 Report of the FTC to Congress pursuant to the Labeling Act stressed the importance of educating teenagers before they start smoking since the use of cigarettes is so strongly habit forming (Report, p. 8). The FTC Report states (p. 13) that whether intentional or fortuitous, teenagers appear to be a prime target for televised cigarette advertising and that the "average American teenager sees more cigarette commercials on network television than does the average American" (p. 25); "'87.9 percent of teenage boys' and '89.5 percent of teenage girls hear radio on the average day'" (p. 13). The Report comments (p. 24):

> In making a decision on whether to start smoking, youngsters especially have a right to know that once they start, they may never be able to stop. A viewer of cigarette commercials and advertisements would never hear of this aspect of smoking.

The concluding paragraph of the FTC Report states (p. 29):

> Cigarette commercials continue to appeal to youth and continue to blot out any consciousness of the health hazards. Cigarette advertisements continue to appear on programs watched and heard repeatedly by million (sic) of teenagers. Today, teenagers are constantly exposed to an endless barrage of subtle messages that cigarette smoking increases popularity, makes one more masculine or attractive to the opposite sex, enhances one's social poise, etc. To allow the American people, and especially teenagers, the opportunity to make an informed and deliberate choice of whether or not to start smoking, they must be freed from constant exposure to such one-sided blandishments and told the whole story.

35. This Commission agrees. Considering all of the foregoing, we believe that our ruling is within our statutory authority and not precluded by the Congressional policy embodied in the Labeling Act—that rather it implements that policy. We also think it is imperative in the public interest that we exercise our discretion now without delay for further studies.

D. THE ARGUMENT AS TO BLANKET RULING

36. Petitioners further contend that even if the Fairness Doctrine properly applies to cigarette advertising, the Commission has invalidly made a blanket ruling that any cigarette advertisement per se presents a controversial issue of public importance, whereas no controversial issue of public importance can be presented where a lawful business is advertising a lawful product and, in the absence of any health claim in the commercial or affirmative discussion of the health issue, there is no viewpoint to oppose. But this argument misconceives the nature of the controversial issue. Mr. Banzhaf's complaint was that the cigarette commercials over WCBS–TV presented the point of view that smoking is "socially acceptable and desirable, manly, and a necessary part of a rich full life." Our ruling points out that:

> The advertisements in question clearly promote the use of the particular cigarette as attractive and enjoyable. Indeed, they understandably have no other purpose. But we believe that a station which presents such advertisements has the duty of informing its audience of the other side of this controversial issue of public importance—that however enjoyable, such smoking may be a hazard to the smoker's health.

Petitioners point to no example of a cigarette commercial that does not portray the use of the particular cigarette as attractive and enjoyable as well as encourage people to smoke, and we find it difficult to conceive of one.

37. Further, we are unable to accept the argument that in the absence of any express health claim in the commercial or affirmative discussion of the health issue, there is no viewpoint to oppose. The June 30, 1967 FTC Report amply documents its conclusion that cigarette commercials today still contain the two principal elements if found to exist in 1964—a portrayal of the desirability of smoking and assurances of the relative safety of smoking (pp. 15–16). The FTC states that desirability is portrayed in terms of the satisfactions engendered by smoking and by associating smoking with attractive people and enjoyable events and experiences, and that by so doing the impression is conveyed that smoking carries relatively little risk (ibid.).[14] The Report supports this conclusion, more than adequately in our view, by a comprehensive review and analysis of the advertising submitted by a large number of cigarette companies and monitored by the Commission (FTC Report, pp. 15–23). Numerous examples are given of the "satisfaction" theme (pp. 15–16);[15] the "associative" theme (pp. 16–17);[16] "appeals directed to vanity" (pp. 17–18);[17] subtle methods of "assuaging anxiety" about

[14] The FTC Report states (p. 17) that an estimated 58 percent of the public feel that current cigarette advertising leaves the impression that smoking is a healthy thing to do.

[15] The Report states that portrayal of satisfaction, particularly oral satisfaction, continues to be an important element of cigarette advertising. Taste or flavor of cigarettes is most often described in terms of "mildness" (Tareyton filters, Montclair menthols, Camel regulars, Carlton filters, Lucky Strike filters, Pall Mall filters, and Chesterfield kings); "smoothness" (Tareyton filters, Pall Mall kings, Newport menthols, and Lucky Strike menthols); "real," "true," "rich," or "great" tobacco flavor or taste (Raleigh filters, Newport menthols, Viceroy filters, Salem menthols, and Philip Morris filters). Invariably, the taste of menthol cigarettes is either cool, fresh and/or refreshing ("coolest flavor," Lucky Strike Green; "forest-fresh taste * * * cooler tasting," Pall Mall; "as fresh as you like it," Philip Morris; "most refreshing coolness," Kool; "fresher," Newport; "fresh menthol flavor," Camel; "Springtime fresh" and "refreshes your taste," Salem; "a full, fresh taste," Chesterfield). The FTC comments (p. 16): "The impression forms that 'menthol taste' relieves smoking irritation, albeit 'smoking irritation' is never expressly stated."

[16] The Report states (p. 16) that associating cigarette smoking with persons, activities, places, and things likely to be admired, respected, or emulated, i.e., endowing cigarette smoking with a positive associative image, continues unabated in current advertising. For example, outdoor activity of an athletic nature such as sailboating "suggests that the smoking depicted in the foreground, if not conducive to rousingly good health, is certainly not incompatible with it" (FTC Rept., p. 17). In addition, social events abound in which the viewer is brought into the "wholesome, jolly company of cigarette smokers" (ibid.). E.g. "singing aboard the old paddle wheel steamer (with Pall Mall kings); * * * picnicking (with Camel filters); and coffee klatching (with Winston filters)."

[17] The Report gives as examples of appeals to vanity (pp. 17–18):

> "Be discriminating: 'Particular about taste * * * I'm particular' (Pall Mall Kings); 'They like the style of this cigarette' (Parliament filters). Be exclusive: * * * 'exclusive plastic pack' (Philip Morris filters and menthols); 'There's no other cigarette' (Lark filters). * * * 'the smokers who know' (Camel filters). Be a success: 'tastes rich, good, rewarding' (Viceroy filters); 'This man was born rich' (Camel filters). Be a social success: 'Come up to the taste of Kool' (Kool menthols); 'find something better' (Old Gold filters). Be independent: 'break away from the crowd * * * the cigarette for independent people' (Old Gold filters); 'stands out from the crowd' (Salem menthols). Associate with important people: 'Chairmen are never bored with them' (Benson & Hedges filter); the charter boat skipper who has 'got a good ship, a good crew and a good breeze' (Camel regulars)."

any health hazard (pp. 19–21);[29] the "loyalty" theme (pp. 15–16);[30] and the "bonus" theme, which includes promoting longer cigarettes at popular prices as well as coupon promotions (pp. 22–23).[31] We note also the FTC's comment[32] (Report, p. 18):

> There is in all of the array of positive images an element of escape from actuality. Some cigarette advertising transcends mere image association and projects its own separate and unique world. Examples include "Salem Country," a land in which romantic couples romp and preen through shifting, sylvan settings; the "Night People," whose post evening encounters can lead to smoking Parliament filters; and "Marlboro Country," where there daily unfolds the simple male heroic virtues of the "Old West." Worry over health has been vanished from these Shangri-las.

38. It comes down, we think, to a simple controversial issue: the cigarette commercials are conveying any number of reasons why it appears desirable to smoke but understandably do not set forth the reasons why it is not desirable to commence or continue smoking. It is the affirmative presentation of smoking as a desirable habit which constitutes the viewpoint others desire to oppose. We see no inequity in the circumstances that cigarette advertisers are precluded by various codes from making affirmative health claims in the advertising programming.[33] The Fairness Doctrine affords an avenue for presenting in regular program time the viewpoint of responsible spokesmen for the cigarette advertisers in rebuttal to any health hazard claims made in opposition to cigarette commercials. And, finally, we fail to see any merit in the argument that no controversial issue of public importance can be presented where a lawful business is advertising a lawful product.[34] While an unlawful business advertising an unlawful product over the air waves might well raise some controversial issue of public importance, we do not regard that element as essential. The claim that no controversial issue of public importance is presented by cigarette advertising is neither realistic nor persuasive.

E. The Contention as to a Substitution of "Commission Fiat" for Licensee Judgment

39. Petitioners also argue that the ruling, by requiring that a significant amount of time be allocated each week to cover the viewpoint of the health hazard posed by cigarette smoking and by suggesting that a licensee might, among other things, present a number of public service announcements of the American Cancer Society or HEW, will cause a debasement of the Fairness Doctrine generally and a substitution of Commission fiat for licensee judgment. CBS in particular, noting that commercials are by nature repetitive and continuous, urges that treating all cigarette commercials as presentations of one side of a controversial issue will raise a question as to whether any one program or program series—however enlightening and informative as to all points of view—can constitute an adequate opportunity for response. Asserting that inevitably the licensee's only recourse will be a series of health hazard spot announcements, CBS states that broadcast treatment of cigarette health issues should not be reduced to a contest of opposing spot announcements endlessly repeated long after any member of the public has understood and acted if he wished. It further asserts that such an approach makes no sense in the area of news and public affairs programing and that the net result of our ruling will be to convert licensee responsibility in such areas to presentations very similar to product advertising.

40. Like CBS, we recognize that the presentation of one side of a controversial issue of public importance in advertising programing poses a situation which differs from that usually pertaining to the presentation of controversial issues in news and public affairs programing. In the latter instance, the issue may arise only once, or a few times, or several times in a relatively short time period because of factors such as timeliness. But as CBS points out, commercials are by nature "repetitive and continuous;" the complaint here went to advertisements broadcast daily for a total of 5 to 10 minutes each broadcast day. We think that the frequency of the presentation of one side of the controversy is a factor appropriately to be considered in our administration of the Fairness Doctrine under the Act's basic policy of the "standard of fairness" (supra, par. 10). For, while the Fairness Doctrine does not contemplate "equal time", if the presentation of one side of the issue is on a regular continual basis, fairness and the right of the public adequately to be informed compels the conclusion that there must be some regularity in the presentation of the other side of the issue. This consideration is not limited to advertising. For example, if one side of a controversial issue of public importance were regularly presented in a daily network program, compliance with the Fairness Doctrine would require something more than an occasional presentation of the other side of the issue during the course of the year.

41. Moreover, here the controversial issue posed is one of health hazard and the repeated and continuous broadcasts of the advertisement may be a contributing factor to the adoption of a habit which may lead to untimely death. In the circumstances, we think that the licensee is under a higher duty than in the case of other controversial issues to ameliorate the possible harmful effect of the broadcasts by sufficiently informing the public as to the hazard. As indicated in our ruling, and in light of the considerations set forth in paragraphs 33–34 and 60–61, we believe that the frequency of the presentation of the one side and the nature of the potential hazard to the public here necessitates presentation of the

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[29] The Report states that as a result of extensive promotion during 1957–59, the belief appears to be widely held that filter cigarettes are less hazardous to health than regular cigarettes (p. 19). Comparatively overt attempts to allay health anxieties have been made by manufacturers of charcoal filter cigarettes by pictorial details of filters creating the impression that they prevent passage of tars and gaseous effusions (Tareyton, Lucky Strike, Tennyson, Cold Harbor, King Sano, Tempo, Duke, and Lark). Rept., p. 20. Other "very low key" advertising enhances the impression of relative safety by adding suitable adjectives to the word "filter": "recessed filters" (Benson & Hedges and Parliaments), "white filters" (Yorks), "menthol filters" (Springs) and "filters with coconut shell charcoal" (Philip Morris). Ibid.

[30] See Report (p. 22). Underlying these "loyalty" theme examples is, of course, the promise that the particular cigarette gives great satisfaction (e.g., "Change to Winston and change for good").

[31] The Report states (p. 23): "The purchase of Raliegh cigarettes has long been rewarded with coupons redeemable for goods. Today, Belair menthols, Old Gold filters, York filters, Spring menthols, and Domino filters also carry coupons redeemable for goods. Menthol and filter Chesterfields and Philip Morrises carry coupons redeemable for more cigarettes." The report also gives examples of 100 millimeter cigarette advertising (Benson & Hedges, Lucky Strike, Winston, and Pall Mall), and states (ibid.): "With a definite relationship having been established between amount of cigarette smoking and incidence of lung cancer and other diseases, a fitting motto for the 100 millimeter cigarette campaign might be 'extra health hazard at no extra cost'" (footnotes omitted).

[32] While we have, as petitioners point out, distinguished between explicit and implicit raising of controversial issues in broadcast material where health was not involved (e.g., atheists and agnostics versus the broadcast of religious services), we do not regard those cases as pertinent here in view of the nature of the controversial issue.

[33] We recognize also (as set forth in par. 29 above and Appendix A) that the tobacco and broadcasting industries have endeavored in their codes to prescribe cigarette advertising standards aimed at reducing the appeal to youth. But the conclusions of the FTC Report (par. 37 above) and the statistics and other matters set forth in pars. 33–34 and 60–61 would seem to indicate that the standards are either not being followed or are not effective in discouraging new teenage smoking. Moreover, it occurs to us that teenagers on the verge of adulthood may be more influenced by a portrayal of the attractiveness and desirability of adult conduct than by one connoting childhood or youthful behavior. As the FTC Report notes (p. 8): "They tend to view cigarette smoking as a visible mark of maturity, a passport to adulthood. Because the health dangers of cigarette smoking are not brought home to them in an effective and meaningful way, many teenagers take up the smoking habit."

[34] NBC, in urging that licensees could reasonably and in good faith conclude that no controversial issue of public importance is presented by cigarette advertising, notes that the FTC advertising guides permit presentation of enjoyment since they state:

> "Nothing contained in these guides is intended to prohibit the use of any representation, claim or illustration relating solely to taste, flavor, aroma, or enjoyment."

Our ruling is consistent. It, too, does not in any way prohibit the presentation of enjoyment in cigarette commercials. It merely requires the licensee adequately to inform the public of the potential hazard, as found by Congress and Government reports, entailed in commencing or continuing this habit.

opposing viewpoint on a regular basis (e.g., each week).

42. We note that, contrary to CBS' position, the repetition of short communications has apparently been regarded by the broadcasting and advertising industries and other interested organizations as an effective means of reaching the listener or viewer. But in any event, there is nothing in our ruling which compels a licensee to treat the issue through presentation of spot messages. In our ruling we stated: "A station might, for example, reasonably determine that the above-noted responsibility would be discharged by presenting each week, in addition to appropriate news reports or other programing dealing with the subject, a number of the public service announcements of the Cancer Society or HEW in this field." This example does not on its face indicate that the opposing viewpoint should be presented solely or principally through spot announcements, and it was not intended as a "Commission fiat" as to the manner of compliance with the Fairness Doctrine.[24] We stressed in the ruling, and here strongly emphasize again, that "in this, as in other areas under the fairness doctrine, the type of programing and the amount and nature of time to be afforded is a matter for the good faith, reasonable judgment of the licensee, upon the particular facts of his situation. See Cullman Broadcasting Co., F.C.C. 63-849 (Sept. 18, 1963)."

43. In other words, we agree with CBS that the "question of whether a licensee is responsibly complying with the fairness doctrine cannot be resolved by per se guidelines, ratios or other rigid rules." A licensee which has just presented a very lengthy program on this issue obviously might reach a different judgment as to what his obligation was in this respect for the next week or so. But as stated, the carriage of the normally substantial amount of weekly commercials raises a concomitant responsibility to be met over relatively the same period of time. Further, in these circumstances, while a 1 to 1 ratio is ruled out by considerations of the legislative history of the Cigarette Labelling Act, the licensee's obligation is just as clearly not met by an occasional program a few times a year or by some appropriate announcements once or twice a week. We stress again that what is called for is the allocation of a significant amount of time each week, absent unusual circumstances, to the presentation of the opposing viewpoint in the case of cigarette commercials. We do not see why licensees, proceeding in good faith, should experience any real difficulty in reasonably discharging that responsibility nor why, in view of the nature of the issue—the public's health, they would seek to fulfill that obligation in a niggardly fashion, designed to raise problems or complaints. In sum, we have not usurped licensee judgment as to the type of programing or the amount or nature of the time to be afforded, but rather have left these matters to the good faith, reasonable judgment of the licensee based on his evaluation of the facts of his particular case.[25]

F. Effect of the Ruling on the Advertising of Products Other Than Cigarettes

44. Petitioners further assert that the ruling cannot logically be limited to cigarette advertising alone, and hence will have broad-scale effect on broadcast operations and the presentation of advertising by radio generally. They state that very little in society is uncontroversial and, since many products are subject to one form of controversy or other, an appeal to the Commission by a vocal minority is all that is needed to classify a subject as controversial and of public importance. They further claim that if governmental and private reports on the possible hazard of a product are a sufficient basis for the cigarette ruling, the ruling would apply to a host of other products, such as: automobiles, food with high cholesterol count, alcoholic beverages, fluoride in toothpaste, pesticide residue in food, aspirin, detergents, candy, gum, soft drinks, girdles, and even common table salt. We do not find this "parade of horribles" argument impressive.

45. We stressed in our ruling that it was "limited to this product—cigarettes," stating further in this connection:

> Governmental and private reports (e.g., the 1964 Report of the Surgeon General's Committee) and Congressional action (e.g., the Federal Cigarette Labeling and Advertising Act of 1965) assert that the normal use of this product can be a hazard to the health of millions of persons. The advertisements in question clearly promote the use of a particular product as attractive and enjoyable. Indeed, they understandably have no other purpose. We believe that a station which presents such advertisements has the duty of informing its audience of the other side of this controversial issue of public importance—that however enjoyable, such smoking may be a hazard to the smoker's health.

Our ruling does not state, and was in no way meant to imply, that any appeal to the Commission by a vocal minority will suffice to classify advertising of a product as controversial and of public importance. Rather, the key factors here were twofold: (1) Governmental and private reports and Congressional action with respect to cigarettes, and (2) their assertion in common that "normal use of this product can be a hazard to the health of millions of persons."

46. The products to which petitioners refer do not present a comparable situation. The example most uniformly cited is auto safety. But the governmental and private reports on this matter do not urge the public to refrain from "normal use" of automobiles in the interest of public safety; rather, the emphasis is on increased safety features in the manufacture of automobiles and increased care by drivers. Moreover, we no of no widespread contention by governmental or private authorities that the "normal use" of any of the other products cited by petitioners poses a serious health hazard to millions of persons who otherwise enjoy good health.

47. We adhere to our view that cigarette advertising presents a unique situation. As to whether there are other comparable products whose normal use has been found by Congressional and other Government action to pose such a serious threat to general public health that advertising promoting such use would raise a substantial controversial issue of public importance, bringing into play the Fairness Doctrine, we can only state that we do not now know of such an advertised product, and that we do not find such circumstances present in petitioners' contentions about the advertised products upon which they rely. Thus, to say the least, instances of extension of the ruling to other products upon consideration of future complaints would be rare, if indeed they ever occurred. In short, our ruling applies only to cigarette advertising, and imposes no Fairness Doctrine obligation upon petitioners with respect to other product advertising.

G. The Claim as to Adverse Financial Impact Upon the Broadcasting and Tobacco Industries

48. Petitioners further assert that the ruling will seriously undermine the commercial structure of broadcasting, cause a substantial reduction in or the elimination of cigarette advertising to the severe detriment of these stations and their ability to serve the public interest, require a major change in the operation of broadcast stations by necessitating the acquisition and presentation of new program material and the keeping of additional records to document compliance with the Fairness Doctrine, limit the ability of cigarette manufacturers and advertisers to obtain advertising

[24] As set forth in par. 25, prior to our ruling the American Cancer Society received favorable responses from all the networks and many independent stations concerning the promotion of its spots on smoking and health. Moreover, the Public Health Service reported in January 1967 that it had distributed spot announcements to over 900 radio stations and was then approaching individual television stations to obtain further coverage for its messages. The example we gave merely took cognizance of the fact that such material is available to licensees if, in their judgment, its use would facilitate compliance with their obligations under the Fairness Doctrine. We thought it desirable to note its availability particularly for the small station with limited resources, which might have difficulty in preparing its own program material dealing with this issue.

[25] It is also argued that the licensees may simply substitute cigarette health messages for other public service announcements now being carried. The duty of a station carrying cigarette commercials to inform the public as to the hazards of smoking stems directly from the fact that its facilities have been used to promote the use of this product found by the Congress and governmental reports to be so potentially hazardous to health; its responsibility is therefore the same as in the case of any other fairness situation. It thus has a duty to present the other side, over and beyond what a licensee decides in other respects to present in order to serve the best interests of his area. We therefore do not believe that a licensee would or should adopt a pattern of operation which he does not adjudge to serve fully the needs and interests of his public.

time on broadcast media, and adversely affect the sale of cigarettes, all of which will impose an unlawful burden on interstate commerce and conflict with the Congressional intent underlying the Cigarette Labeling Act.

49. The contention that our ruling will seriously undermine the commercial structure of broadcasting is pressed principally by the Association of National Advertisers, Inc., an association composed of leading manufacturers and service concerns that use advertising, seven of whom market cigarettes. Their concern appears to rest principally on the fear that the ruling will be extended to many other products which are subject to controversy in one form or another. However, as set forth in the preceding section of this opinion (supra, pars. 44–47), we believe that this fear is groundless. The only real question here is the impact of our ruling on cigarette advertising on broadcast media and the sale of cigarettes.

50. We have no reason to think, and petitioners have proferred nothing concrete in support of their claim, that the ruling will cause any substantial reduction in or the elimination of cigarette advertising on broadcast media or adversely affect the ability of broadcast licensees to serve the public interest. As we have stated, we shall tailor the requirement that a station which carries cigarette commercials provide a significant amount of time for the other viewpoint, so as not to preclude or curtail presentation by stations of cigarette advertising that they choose to carry.

51. Nor do we think it realistic to assume that the requirement will cause cigarette advertisers and manufacturers to turn to other advertising media. The attractiveness of the broadcast media, particularly television, as a means of effectively reaching the vast majority of the American public with advertising, as well as other, messages is without equal.[26] We find it difficult to believe that cigarette manufacturers and advertisers would abandon or make substantially less use of a medium of this nature merely because our ruling may require an increase in the programing on the smoking-health issue which broadcast licensees are already presenting in the exercise of their judgement under the Fairness Doctrine and pursuant to their obligation to operate in the public interest.[27] Rather, particularly in light of the consideration set forth above (par. 50), we are not persuaded that the effect of our ruling on the amount of cigarette advertising presented on broadcast media will be significant.[28]

52. We also fail to see how the ruling would require any major change in the operation of broadcast stations. In complying generally with the Fairness Doctrine in their overall broadcast operations, broadcast licensees are required to afford reasonable opportunity for the presentation of the other side of controversial issues of public importance when they choose to present one side, and to document their efforts upon complaint. Our rules require the keeping of program logs (see, e.g., §§ 73.111 and 73.112; see also sec. 303(j) of the Communications Act), and we are sure that licensees in the conduct of their business affairs presently keep full accounts as to advertising matters. Thus, we think that this particular controversial issue can be handled by licensees in a manner similar to their established practices in this area.[29]

53. There is nothing in our ruling which would preclude or curtail the ability of cigarette manufacturers to obtain advertising time on broadcast media. Licensees remain free to present such cigarette advertising as they choose. Conceivably, some licensees, in view of the mounting public concern as to the potential health hazard of cigarette smoking, might voluntarily decide to curtail or refrain from cigarette advertising broadcasts in the public interest. But that is appropriately a matter for licensee judgment as to how to conduct broadcast operations to serve the public interest, and not a requirement of our ruling. Under section 3(h) of the Communications Act, broadcasters are not common carriers and they cannot be compelled to present advertising which they do not wish to present. Moreover, cigarette manufacturers clearly have no right to insist that a broadcast licensee, who is willing to present cigarette advertising, present it in a manner that does not comport with his statutory obligation to operate in the public interest. Nor does a cigarette manufacturer have any legal right to complain that the use of radio to inform the public as to the potential health hazard of cigarette smoking may lead so some decline in cigarette sales or slow down the present trend of rising cigarette sales (FTC Report, pp. 4–7). Indeed, that is the very purpose of the educational efforts which Congress has directed HEW to undertake.

54. In sum, we see no merit to the contention that our ruling will lead to severe curtailment or possible elimination of cigarette advertising, or have a serious economic impact on the broadcasting industry, contrary to the intent of Congress in the Labeling Act. The ruling properly effectuates the responsibilities of broadcast licensees and this Commission under the Communications Act. There is no unlawful burden on interstate commerce nor conflict with Congressional intent in, or the provisions of, the Labeling Act.

H. The Procedural Contention

55. Finally, petitioners urge that the ruling is procedurally invalid because it effects an important and unprecedented change of policy which will affect all licensees and it was adopted without affording WCBS–TV, broadcast licensees generally and other interested persons an opportunity to be heard. CBS, in particular, asserts that this was a departure from the Commission's procedure of advising a licensee of a fairness complaint and requesting its comments (Fairness Primer, F.C.C. Public Notice of July 1, 1964, 29 F.R. 10415, 10416, cited with approval in the Red Lion case, supra, par. 8). CBS requests that the contents of its letter be treated as its comments on Mr. Banzhaf's complaint, and that we reconsider the ruling on the basis of such comments.[30]

56. We have granted this request of CBS and have carefully considered its comments in determining that reconsideration is not warranted by the arguments contained in its letter. Our omission to seek the comments of WCBS–TV initially was occasioned by our view that Mr. Banzhaf's complaint, which enclosed his request to WCBS–TV and the reply of that station, adequately set forth the facts of the case and the positions of the parties. Since WCBS–TV has a continuing policy of presenting the smoking-health hazard controversy and asserted only its position that the Fairness Doctrine does not apply to advertising, our letter of June 2, 1967 to that station had two purposes: One, to apprise WCBS–TV of the Commission's view that the Fairness Doctrine does apply to cigarette advertising, as a matter of law and policy, and second, to bring to the station's attention our view that a sufficient amount of time must be allocated, usually each week, for the opposing viewpoint so that WCBS–TV could appropriately exercise its licensee judgment in connection with its continuing program. As stated in paragraph 6, supra, the effectiveness of the June 2d ruling will not be the basis for action against any licensee, including WCBS–TV, until publication of this memorandum opinion

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[26] The FTC Report states (p. 10) that more of the money spent for cigarette advertising in the year 1966 was spent on television advertising than on all other media combined (66.6 percent in 1966). The Report also states (ibid.) that "in 1966, cigarette advertising accounted for approximately 7.2 percent of total television advertising expenditures."

[27] In this connection, we note that many stations and the television networks (e.g., CBS's efforts as detailed in this case) have given coverage to the smoking-health issue and that they also continue to air numerous cigarette commercials.

[28] Certainly, there is no reason to anticipate that any such minimal impact could have any substantial adverse effect upon the ability of broadcast stations to serve the public interest. Cf. also FTC Report of June 30, 1967 at p. 10.

[29] We note that WCBS–TV apparently had no difficulty in ascertaining what programs that station had broadcast on this issue in response to Mr. Banzhaf's complaint.

[30] NBC notes that the Commission did not have before it the text of the three commercials Mr. Banzhaf referred to as examples. It has attached to its comments the texts of three advertisements and states that two of them appear to be those mentioned in the complaint and the third is probably the other. NBC further states: "They may show 'attractive' people 'enjoying' themselves while smoking cigarettes, but surely that does not constitute the expression of a viewpoint on whether smoking is a hazard to the smoker's health." For the reasons stated in par. 38 above, we do not think that the text of the particular advertisements was necessary to our ruling or to our decision on the requests for reconsideration.

and order in the FEDERAL REGISTER. In the circumstances, and particularly the fact that we have fully considered the comments submitted by CBS on reconsideration, we conclude that WCBS-TV has not been prejudiced by the procedures followed in this matter.

57. It is true that other interested persons were not accorded an opportunity to be heard prior to the ruling. It is not the Commission's normal procedure or usual practice to accord the public in general an opportunity to be heard with respect to fairness complaints against a particular licensee, even though the complaint may involve an important issue of policy (see, e.g., Cullman Broadcasting Company, FCC 63-849; Times Mirror Broadcasting Co., 24 R.R. 404 and 407 (1962)). We thus followed long established procedures in this respect. In any event, we have now heard at length from the three television networks, numerous individual broadcast licensees, the NAB, and representatives of the advertising and tobacco industries. We have given extensive consideration to the arguments raised in support of their positions, and have found them without merit. Moreover, the ruling is not effective as to any broadcast licensee until publication of this opinion in the FEDERAL REGISTER. In the circumstances, we conclude that petitioners have been adequately heard and have suffered no prejudice.

58. Further, we are unable to conclude that any useful purpose would be served by affording petitioners a further opportunity for written comment or oral argument. The viewpoints of petitioners on the legal and policy issues are fully and amply set forth in the pleadings already filed, and nothing has been presented which would indicate the need or desirability of further study or proceedings; thus we are not persuaded that any public purpose would be served by initiating rule making in this area, as requested by the law firm of Smith, Pepper, Shack and L'Heureux. We note that the petition for rule making does not propose the adoption of any rules, but only the provision of a forum for consideration of the legal and policy arguments urged by petitioners and discussed herein. We do not think that a rule making proceeding is either needed or appropriate for their resolution.[31]

59. And, finally, we point out that we could not in any event conclude that stay relief would be warranted pending any such further proceedings. This is not only because we believe that petitioners have not shown any substantial likelihood of ultimately prevailing on the merits of their position, either before this Commission or the courts, but also because the public interest would require denial of such relief on injury grounds. We have already set forth the basis for our belief that compliance with the ruling will not cause any substantial adverse impact on the broadcasting or advertising industries. We have not been shown that any irreparable injury will flow to petitioners. In any event, in view of the strong public interest in adequately informing the public, and particularly teenagers, as to the health hazard involved in the cigarette habit which broadcast facilities are encouraging them to adopt and continue, we think that any injury to the affected industries is outweighed by the danger of irreparable injury to the public. Indeed, if our ruling will contribute to the avoidance of one untimely death, the public interest would not be served by any delay in its effectiveness.

60. In connection with this latter point, we have taken into account the further studies which have been undertaken since the Advisory Committee Report by persons competent in this field. Most important, of course, is the recent HEW Report of July 12, 1967 (already discussed in paragraph 33 and since confirmed and amplified in its Report of August 1967). We shall therefore note here other pertinent studies. In February 1966 Dr. E. Cuyler Hammond's study for the National Cancer Institute made the first large scale survey of women cigarette smokers. His study showed that such women's death rate from heart disease and lung cancer were twice that of nonsmokers.[32] In May 1966 Dr. Green of Harvard University reported experiments with rabbits proving cigarette smoking can cause many lung and throat ailments.[33] Roswell Memorial Institute announced in August 1966 a report finding filter tips of several cigarette brands ineffective in screening out harmful tars and nicotine. This report acknowledged that some filters were better than other, but asserts that none protects smokers.[34] A study by the Public Health Service and the American Cancer Society reported in October 1966 that a 5-year study of Seventh Day Adventists in California, comparing death rates of 11,071 male Adventists who do not smoke and the general male California population, showed one-sixth as many lung cancer deaths and one-third as many deaths from all respiratory diseases among Adventists as among the total male population.[35] Also in October 1966, a Louisiana State University 5-year study, financed partly by the Tobacco Research Council, reported findings of a relationship between cigarette smoking and hardening of the arteries in the heart.[36] Just recently, in a formal report to the President, it was stated by Dr. Kenneth M. Endicott, Chief of the National Cancer Institute, that "lung cancer—which will kill more than 50,000 Americans this year—can be brought under control because it is clearly caused by environmental factors—chiefly cigarettes." The President was also advised that "lung cancer has reached epidemic levels in men and may soon do so in women."[37]

61. As stated in our ruling, of most serious concern to the Commission are statistics as to the correlative rise in cigarette consumption and teenage smoking. In January 1966 the Department of Agriculture in a public report entitled, "Tobacco Situation", announced that 1965 had been a record year for cigarette consumption.[38] The reason given by the Surgeon General for the increase was new smokers, not the increased use of tobacco by the then-current smokers.[39] In July 1966 Surgeon General Stewart reported, based on American Cancer Society and Public Health Service surveys, that one-half of American teenagers are regular smokers by age 18, despite 2½ years of intensive educational efforts.[40] In October 1966 the Rand Youth Poll, conducted by the Youth Research Institute, released findings that teenagers smoke 10 million cigarettes per week, that 53 percent of all 16-19 year olds are smokers, and that this represents a rise of 4 percent in this age group during the almost 3-year period since the Advisory Committee's Report.[41] In November 1966 the American Cancer Society noted a 6-year study by Dr. E. Cuyler Hammond showing a marked drop in cigarette smoking among older people and a rise in consumption by young people.[42] In December 1966 the Agriculture Department announced that Americans had once again set a new record for total consumption of cigarettes per year.[43] In light of the statistics concerning teenage smoking, this increase in consumption appears correlated to the increase in population which occurs through the increase in youthful persons.

62. We wish to make it clear that this Commission is not the proper arbiter of the scientific and medical issue here involved and of course has not sought to resolve that issue. We have cited the reports in question because they establish (i) that here is a most substantial controversial issue of public importance, which must be fairly aired to the American people, and (ii) that because of the seriousness of the issue to the health of the people, a stay is patently inconsistent with the public interest. We recognize that there are countering efforts and arguments put forth particularly by the tobacco industry; there are also new and continuing developments in this field. See Hearings before the Consumer Subcommittee of the Senate Commerce Committee to review progress being made toward development and marketing of a less hazardous cigarette. We have not gone into detail on these matters, because

[31] As set forth in par. 43 above, we agree with the CBS position that licensee responsibilities under the Fairness Doctrine, in this as in other areas, should not be subject to per se guidelines, ratios or other rigid rules prescribed by the Commission. Accordingly, we would not undertake rule making to prescribe such standards in the absence of some compelling showing leading us to revise our present judgment (see par. 43) and to conclude that rule making in this particular area would be appropriate and would serve a useful purpose.

[32] New York Times, Feb. 23, 1966, 41: 8.
[33] New York Times, May 2, 1966, 39: 1.
[34] New York Times, Aug. 30, 1966, 1: 7.
[35] New York Times, Oct. 12, 1966, 54: 1.
[36] New York Times, Oct. 22, 1966, 20: 2.
[37] The Washington Post, July 22, 1967, 2: 1.
[38] New York Times, Jan. 2, 1966, IV, 7:1.
[39] New York Times, Jan. 11, 1966, 9:1.
[40] New York Times, July 17, 1966, IV, 10:1.
[41] Advertising Age, Oct. 31, 1966.
[42] New York Times, Nov. 3, 1966, 41:1.
[43] New York Times, Dec. 31, 1966, 4:6.

they do not alter the two crucial findings set forth above.

63. As stated, this Commission agrees with the crucial point set forth in the concluding paragraph of the recent FTC Report (see par. 34). In view of the Congressional action, the Government and private reports, we conclude that a stay of our action would be contrary to the public interest. Licensees must therefore abide by the ruling, or seek judicial review of it (see Red Lion Broadcasting Company v. F.C.C. supra). (Even in the event of such review, the ruling remains effective, absent entry of a Court stay.)

II. CONCLUSIONS

64. There is, we believe, some tendency to miss the main point at issue by concentration on labels such as the specifics of the Fairness Doctrine or by conjuring up a parade of "horrible" extensions of the ruling. The ruling is really a simple and practical one, required by the public interest. The licensee, who has a duty "to operate in the public interest" (§ 315 (a)), is presenting commercials urging the consumption of a product whose normal use has been found by the Congress and the Government to represent a serious potential hazard to public health. Ordinarily the question presented would be how the carriage of such commercials is consistent with the obligation to operate in the public interest. In view of the Legislative history of the Cigarette Labelling Act, that question is one reserved for judgment of the Congress upon the basis of the studies and reports submitted to it (except, of course, for whatever voluntary judgment the broadcasting industry might now make). But there is, we think, no question of the continuing obligation of a licensee who presents such commercials to devote a significant amount of time to informing his listeners of the other side of the matter—that however enjoyable smoking may be, it represents a habit which may cause or contribute to the earlier death of the user. This obligation stems not from any esoteric requirements of a particular doctrine but from the simple fact that the public interest means nothing if it does not include such a responsibility.

65. In light of all the foregoing, we conclude and find:

a. The ruling as to the applicability of the Fairness Doctrine to cigarette advertising is within the Commission's legal authority and discretion, and is in the public interest.

b. Petitioners have made no showing which warrants reconsideration and withdrawal of the ruling or the institution of rule making in this area.

c. Petitioners have made no showing that relief, except as indicated in paragraph 6 above, is warranted or in the public interest; on the contrary, the grant of stay relief would be likely to cause irreparable harm to the public.

Accordingly, it is ordered,

That the petitions and requests for reconsideration, rule making, and stay listed in paragraph 1 of this memorandum opinion and order are denied, except to the extent that relief is granted herein pending publication of this memorandum opinion and order in the FEDERAL REGISTER.

It is further ordered, That copies of this memorandum opinion and order shall be mailed to all broadcast licensees of the Commission.

Adopted: September 8, 1967.

Released: September 13, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[*]

[SEAL] BEN F. WAPLE, *Secretary.*

APPENDIX A

BACKGROUND TO 1965 CIGARETTE LABELLING ACT

1. On January 11, 1964, the Report of the Surgeon General's Advisory Committee concluded that cigarette smoking contributes substantially to mortality from certain specific diseases and to the overall death rate. The Committee recommended that "cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action." After the Report was issued, many groups private and public acted to provide this "remedial action."

(a) The Tobacco and Broadcasting Industries

2. Soon after the Advisory Committee's Report, the tobacco and broadcasting industries reacted with voluntary measures to control the content of cigarette advertising. In January 1964 the Television Code Review Board and the Television Board of Directors of the NAB recommended and approved specific amendments to the Television Code. The amendments prohibited some types of cigarette advertising directed at young people and health claims in cigarette advertising.[1] In June 1964 similar amendments were approved for the Radio Code.[2] These Code amendments were motivated by the Advisory Committee's Report. In the words of the Television Code Review Board (Hearings, Senate Commerce Committee on S. 559 and S. 547, 89th Cong., 1st sess., pt. 1, p. 591):

> The board recognizes the burden of responsibility the report imposes on all television licensees in the area of cigarette advertising. Specifically, the board is concerned with the potential of cigarette advertising to give the false impression that cigarette smoking promotes health or physical well-being.

The Code Authority also made clear that regulation initiated by the cigarette manufacturers was what they envisaged. Thus the Authority provided that it would delay the issuance of general guidelines (interpreting the code amendments) which would assist advertisers and code subscribers in adhering to the television code restrictions, pending its determination of the implementation and effectiveness of the tobacco industry's self-regulation. Id., at p. 592.

3. In April 1964 the major cigarette companies announced their agreement and adherence to a cigarette advertising code to impose standards and enforcement procedures for the self-regulation of cigarette advertising. The code provided advertising standards which would be applied by an independent administrator who would survey the advertising and labeling of cigarettes in the United States, with the power to levy fines for any advertising or labeling which does not conform to the industry code standards. These standards are basically of three types. The first prohibits many types of cigarette advertising specifically directed at persons under 21 years of age. Another prohibits health claims, except in certain limited circumstances. The third type prohibits suggestions that smoking is essential to social prominence, distinction, success, or sexual attraction. Robert B. Meyner, the former Governor of New Jersey, is the first and current administrator for the code. In evaluating the effect of the code on cigarette advertising, Mr. Meyner said in a Senate hearing (id., at p. 568) that the character of cigarette advertising had been altered as a result of his enforcement of the code.[3]

(b) HEW and Private Health Agencies

4. The Department of Health, Education, and Welfare (HEW) also took action after the Advisory Committee's Report. On February 18, 1964, the Surgeon General, Luther Terry, convened a meeting of four voluntary agencies to discuss with them and other health agencies means of implementing the recommendations contained in the Advisory Committee Report. This meeting eventually resulted in the establishment of the National Interagency Council on Smoking and Health on July 9, 1965. The purposes of the Council are threefold: "(1) To use its professional talents to bring to the nation—particularly the young—an increasing awareness of the health hazards of cigarette smoking, (2) to encourage, support, and assist National, State, and local smoking and health programs, and (3) to generate and coordinate public interest and action related to this area of health." The membership of the Council includes 13 private agencies and three Federal Government agencies (U.S. Public Health Service, U.S. Office of Education, and U.S. Children's Bureau).

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[*] Statements of Commissioners Loevinger and Johnson filed as part of the original document; Commissioner Wadsworth absent.

[1] Television Code, section IV, Program Standards, paragraph 12: Care should be exercised so that cigarette smoking will not be depicted in a manner to impress the youth of our country as a desirable habit worthy of imitation.

Television Code, section IX, General Advertising Standards, paragraph 7: The advertising of cigarettes should not be presented in a manner to convey the impression that cigarette smoking promotes health or is important to personal development of the youth of our country.

[2] Radio Code I, Program Standards, section H. 13: The use of cigarettes shall not be presented in a manner to impress the youth of our country that it is a desirable habit worthy of imitation in that it contributes to health, individual achievement, or social acceptance.

Radio Code, Advertising Standards, section C(g): The advertising of cigarettes shall not state or imply claims regarding health and shall not be presented in such a manner as to indicate to the youth of our country that the use of cigarettes contributes to individual achievement, personal acceptance, or is a habit worthy of imitation.

[3] However, we note the following exchange between Code Administrator Meyner and Senator Bass (id., at p. 581):

"Senator Bass: * * * don't you believe that the industry itself, with you as the administrator, don't you believe that you are capable of protecting the health of the American public as far as advertising of cigarettes is concerned?

"Code Administrator Meyner: I think you describe a responsibility that is greater than is set forth in the code. As the code sets it forth, I am trying to accept that responsibility * * *"

5. In 1964, the Public Health Service, which strongly endorsed the conclusions of the Advisory Committee's Report, awarded 10 grants and contracts to support demonstrations and projects to design effective methods of reaching various population groups with the facts about smoking. The comprehensive educational campaigns, however, which the Public Health Service desired to start had to await appropriations forthcoming from the 89th Congress. The President's Commission of Heart Disease, Cancer and Stroke recommended an appropriation of $10 million to educate the public on the health hazards of smoking and to provide a network of control clinics to assist those who desire to give up smoking. Two million dollars were forthcoming in the fall of 1965.

(c) *The Federal Trade Commission*

6. As early as September 1955 the Federal Trade Commission (FTC) had promulgated Cigarette Advertising Guides which, among other things, prohibited representations in cigarette advertising or labeling which refer to either the presence or absence of any physical effects from cigarette smoking, or which made unsubstantiated claims respecting nicotine, tars, or other components of cigarette smoke, or which in any other respect contain implications concerning the health consequences of smoking cigarettes or any advertised brand (F.T.C. Ann. Rept., 1960, p. 82). In 1960 the FTC obtained agreement from leading cigarette manufacturers to eliminate unsubstantiated claims of nicotine and tar content (ibid.).

7. Shortly after the issuance of the Advisory Committee's Report, the FTC, on January 18, 1964, initiated a Trade Regulation rule making proceeding concerning the advertising and labeling of cigarettes. On June 22, 1964, after examining the advertising, labeling and other promotional practices in the cigarette industry, the FTC concluded that cigarette manufacturers should be required to make an affirmative disclosure of the potential hazard from smoking in labeling and advertising (29 F.R. 8325). The basis for its conclusion was twofold. First, the FTC found that the consensus of medical and scientific opinion was that cigarette smoking is a significant cause of certain grave diseases and contributes to the overall death rate. Second, the FTC found that the methods by which cigarettes had been and were being sold to the consuming public—by means of labeling and advertising which fails to disclose the health hazards of cigarette smoking—were deceptive and unfair to consumers under settled legal principles governing truth and fairness in advertising. The rule would have required that each cigarette package bear a warning statement by January 1, 1965. Also, if the warnings on the package together with such voluntary advertising reforms as the industry might have undertaken in the interim, had failed to change the circumstances leading to the FTC's findings, the rule would have then required, in addition, warnings in all cigarette advertising by July 1, 1965.

8. On September 3, 1964, at the request of Chairman Harris of the House Commerce Committee, the FTC extended the effective date of the rule for both packaging and advertising warnings to July 1, 1965 (29 F.R. 15570). Chairman Harris stated that he had requested such action because testimony which he had received during his Committee's Hearings in June and July 1964 indicated that the validity of the trade regulation rule would be challenged in the courts, that judicial review could delay the enforcement of the labeling requirements for a considerable period of time, and that the enactment of legislation in this area by the Congress could very well eliminate this delay. The FTC rule never went into effect because Congress enacted the Cigarette Labeling Act.

[F.R. Doc. 67-10743; Filed, Sept. 14, 1967; 8:45 a.m.]