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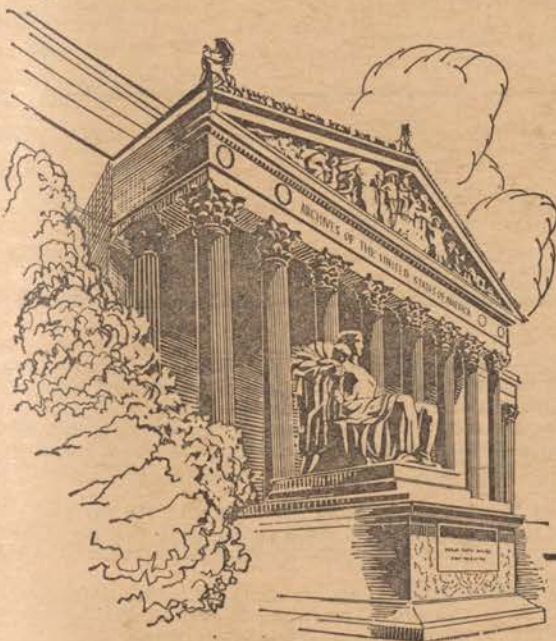
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Commodity Credit Corporation
Consumer and Marketing Service
Emergency Planning Office
Engraving and Printing Bureau
Federal Aviation Administration
Federal Communications Commission
Federal Highway Administration
Federal Home Loan Bank Board
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Announcing First 10-Year Cumulation

TABLES OF LAWS AFFECTED

in Volumes 70-79 of the

UNITED STATES STATUTES AT LARGE

Lists all prior laws and other Federal instruments which were amended, repealed, or otherwise affected by the provisions of

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SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1443—OILSEEDS

Subpart—Cottonseed Oil and Meal Purchase Program Regulations (1968)

- Sec.
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1443.59 Administration.
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1443.69 Parent company.
1443.70 Benefits and contingent fees.
1443.71 Nondiscrimination in employment.

AUTHORITY: The provisions of this subpart issued under secs. 4 and 5, 62 Stat. 1070, as amended, secs. 301, 401, 63 Stat. 1051, as amended, sec. 601, 70 Stat. 212, 15 U.S.C. 714b and 714c, and 7 U.S.C. 1447, 1421, 1446d.

§ 1443.58 General statement.

As a part of the 1968 Cottonseed Price Support Program formulated by Commodity Credit Corporation (referred to in this subpart as "CCC") and the Agricultural Stabilization and Conservation Service (referred to in this subpart as "ASCS"), CCC will purchase cottonseed oil and cottonseed meal from cottonseed crushers participating in the program upon the terms and conditions stated in this subpart. No purchases will be made from crushers who do not participate in the program.

§ 1443.59 Administration.

The program will be carried out by ASCS under the general supervision and direction of the Executive Vice President, CCC. Except as specifically provided otherwise, operations under this subpart will be administered by the New Orleans ASCS Commodity Office located at Wirth Building, 120 Marais Street, New Orleans, La. 70112 (referred to in this subpart as "the New Orleans office"). CCC contracting officers in the New Orleans office will execute contract documents on behalf of CCC. Officials in the New Orleans office do not have authority to waive or modify any provisions of this subpart. The forms referred to in this subpart may be obtained from the New Orleans office.

§ 1443.60 Crusher's participation in program.

(a) **Eligible crusher.** Any crusher who completes and forwards to the New Orleans office a signed original and copy of the 1968 Cottonseed Price Support Program Crusher Acceptance (Form CCC 912) not later than August 31, 1968, and complies with the other provisions of this subpart (such crusher is hereinafter referred to as a "participating crusher") will be eligible to make tenders hereunder to CCC, except that (1) no purchases will be made by CCC from any crusher debarred or suspended from contracting with CCC or from participating in programs financed by CCC, and (2) subject to approval of CCC, a crusher may file such acceptance form subsequent to August 31, 1968, but in such event he may tender only the cottonseed oil or meal equivalent of seed purchased subsequent to the date of filing the acceptance form. If a crusher operates more than one cottonseed crushing mill, he must file an acceptance form for each mill which he desires to have participate in the program, and each such mill shall be treated as a separate unit for the purpose of determining the rights and obligations of the crusher with respect to cottonseed purchased by and cottonseed oil or meal delivered from each such mill. A participating crusher may withdraw from the program at any time upon written notice to the New Orleans office and will not be obligated to pay the applicable minimum prices determined in accordance with § 1443.61(a) for cottonseed purchased after withdrawal. CCC will not accept any tender submitted by a crusher after his withdrawal, and cottonseed purchased after his withdrawal will not be eligible cottonseed as defined in § 1443.63(e).

(b) **Assurance.** The acceptance form will contain an assurance by the crusher that his participation in the program will be conducted, and his facilities operated, in compliance with all of the requirements imposed by, or pursuant to, the regulations governing nondiscrimination in federally assisted programs of the Department of Agriculture, Part 15 of this title, which effectuate Title VI of the Civil Rights Act of 1964.

§ 1443.61 Purchases of cottonseed by crusher.

(a) **Price.** Except as otherwise provided in this paragraph, a participating crusher must pay for all 1968 crop cottonseed purchased from ginners not less than \$52 per ton, net weight, basis grade (100), f.o.b. conveyance or carrier at the gin, and from producers not less than a season's weighted average price of \$48 per ton, gross weight, basis grade (100), and, in the case of purchases from both gins and producers, with premiums and discounts for other grades equal to the same percentage of such price as the percentage by which the grade of cottonseed purchased exceeds or is less than the basis grade (100). For the purposes

of this subpart, the term "season's weighted average price" means the weighted average of the prices paid for cottonseed by the crusher between the date on which he executes the 1968 Cottonseed Price Support Crusher Acceptance submitted to CCC under § 1443.60 (a) and the earlier of (1) the date he executes a notice of withdrawal from the program which is submitted to CCC under § 1443.60(a), or (2) the date of his final purchase of 1968 crop cottonseed. Cottonseed which is "below grade" or "off quality," as defined in C&MS Service and Regulatory Announcement No. 179, as amended, "Standards for Grades of Cottonseed Sold or Offered for Sale for Crushing Purposes Within the United States" (hereinafter referred to as "the Cottonseed Standards"), §§ 61.101-61.104 of this title, may be purchased at a price mutually agreeable to the crusher and the seller.

(b) **Grades.** Except as provided in subparagraphs (1), (2), and (3) of this paragraph, all 1968 crop cottonseed purchased by the crusher shall be graded by federally licensed cottonseed chemists in accordance with the Cottonseed Standards on the basis of samples drawn from the cottonseed by federally licensed cottonseed samplers or such other persons as are approved by CCC. The cost of sampling and grading cottonseed shall be borne by the crusher.

(1) Any crusher located in North Carolina, South Carolina, Georgia, the south Alabama counties of Montgomery, Dallas, Houston, and Barbour, or the San Joaquin Valley of California, may exclude the linters factor in determining the grade if such crusher did not have cottonseed from the 1967 crop graded in accordance with the Cottonseed Standards because of the linters factor.

(2) The grade of cottonseed acquired by the crusher in the San Joaquin Valley of California may be determined on the basis of composite samples of such cottonseed. Individual samples drawn from at least the first three shipments of cottonseed received by the crusher each day shall be mixed together to form a composite sample, except that if a crusher receives less than 35 tons of cottonseed on any day, individual samples may be retained and mixed to form a composite sample when the individual samples represent an accumulation of approximately 35 tons of cottonseed: *Provided*, That no composite sample shall be made from individual samples which have been retained for more than 3 days.

(3) The crusher shall not be obligated to grade 1968 crop cottonseed in accordance with the Cottonseed Standards until the 20th business day following the date of publication of this subpart in the FEDERAL REGISTER.

(c) *Weight.* Purchases of cottonseed from ginners by crushers under this subpart shall be based upon weight at the crusher's mill after deduction of the weight of all foreign material in excess of 1 percent. Purchases of cottonseed from producers by crushers under this subpart shall be based upon the gross weight of the cottonseed as customarily determined by the crusher when making purchases of cottonseed from producers. The cost of weighing shall be borne by the crusher.

(d) *Receipts from certain gins.* Where a gin and crusher are under common control, direction, or management, cottonseed received by the crusher from such gin shall not have been purchased from producers at less than a season's weighted average price of \$48 per ton, gross weight, basis grade (100), with premiums and discounts for other grades equal to the same percentage of such price as the percentage by which the grade of cottonseed purchased exceeds or is less than the basis grade (100).

§ 1443.62 Cooperative mills.

If the crusher is a cooperative oil mill, and if the marketing agreements between the crusher and its members provide for advances, the crusher may advance a part of the applicable minimum purchase price determined in accordance with the provisions of § 1443.61 at the time each lot of cottonseed is purchased and pay the balance of the minimum price after completion of crushing of the 1968 crop cottonseed, but not later than December 31, 1969. Such balance shall be paid in cash unless the Executive Vice President, CCC, has approved deferred payment thereof by issuance of revolving fund certificates or by other methods of retention of funds for capital purposes. The Executive Vice President will approve deferred payment only by crushers (a) which are organized under applicable State or Federal laws as an association of persons who are engaged in the production of agricultural commodities, or as an association of other associations of such persons, and (b) which he determines are operating on a financially sound basis. Any such crusher desiring approval to make deferred payment shall submit its application for approval to the Director, Commodity Operations Division, ASCS, Washington, D.C. 20250, not later than the date of submission of its acceptance form, or such later date as CCC may for good cause approve. The application shall include a certified statement that the crusher meets the requirements of paragraph (a) of this section, and a complete and accurate statement of its current financial condition. The crusher shall also submit to CCC such other information regarding its financial condition as CCC may request.

§ 1443.63 Tenders.

(a) *Tenders of oil and meal by crusher.* A participating crusher may tender to CCC (1) crude or once-refined cottonseed oil, or both, (2) cottonseed meal, or (3) both such oil and meal: *Provided*, That the products tendered are

produced at his mill. If a tender includes any cottonseed meal which the crusher has reason to believe is unsuitable for feed use because of contamination by aflatoxin, he shall so indicate in the tender. The price in any tender shall be the price as proposed by the crusher, except that, in the case of oil, if a maximum price for the crusher's area is announced by CCC under paragraph (b) of this section, the price for oil as proposed by the crusher in any tender shall not exceed the price so announced. The price stated in all tenders of meal shall be on the basis of bulk 41 percent protein meal.

(b) *Announcement of purchase price of oil by CCC.* CCC may, at its option, at any time prior to 2 p.m., c.s.t., on any Wednesday of any given week, announce that it will purchase cottonseed oil at not more than specified prices within areas designated by CCC. Such prices will be determined by CCC after giving consideration to the criteria specified in § 1443.64(b).

(c) *Submission of tenders.* Each tender shall be submitted to the New Orleans office. The tender may be made by letter transmitting a completed 1968 Cottonseed Price Support Program Crusher Tender Form (CCC Form 913) or by wire. If a tender is made by wire, a completed Crusher Tender Form shall promptly be mailed to the New Orleans office in confirmation, and the tender will not be accepted by CCC if it has not received the confirmation. Each tender must be signed by the crusher, by an employee of the crusher having authority to sign tenders for the crusher, or by a broker designated in writing to the New Orleans office by the crusher. The designation of a broker shall authorize the broker, as an agent of the crusher, to submit such tenders on behalf of the crusher (see § 1443.70(c)). Each tender shall state the tender date on which it is to be considered; the prices at which the crusher tenders oil or meal or both to CCC; the quantity of oil or meal or both tendered; whether in the case of oil, the crusher is tendering basis prime crude or prime bleachable summer yellow cottonseed oil or making a two-fold tender; and the proposed delivery schedule meeting the requirements of § 1443.64. A supplementary explanation and justification must accompany any tender contemplating delivery after August 29, 1969.

(d) *Time of tenders.* All tenders, including tenders made pursuant to an announcement by CCC under paragraph (b) of this section, shall be received at the New Orleans office not later than 4 p.m., c.s.t., on each Thursday (or on the next working day if Thursday is a holiday). No tender, or modification or withdrawal thereof will be considered if received after the specified time on a particular tender date, unless received before acceptance is made of tenders received before such time and CCC determines that (1) such tender, modification, or withdrawal was delayed in transmission by mail or telegraph through no fault of the crusher, or (2) the modification is made for the purpose

of correcting an error apparent on the face of the original tender or for the purpose of clarifying an ambiguity or supplying an omission therein, or (3) the modification is beneficial to CCC and not prejudicial to any other crusher. No tenders shall be made later than July 31, 1969.

(e) *Limitation on tenders.* Tenders of oil and meal by any crusher shall be made only against eligible cottonseed, which for the purposes of this subpart, is 1968 crop cottonseed produced in the United States and purchased by the crusher under the provisions of this subpart, other than below grade or off quality cottonseed and cottonseed purchased by the crusher prior to the date of receipt of his acceptance form by CCC if such date is after August 31, 1968. The quantity of oil or meal which the crusher tenders and CCC accepts shall not exceed the quantity thereof which could be produced from eligible cottonseed, based upon the 1967 crop outturn per ton of cottonseed in the crusher's area, as determined by CCC. Whenever CCC accepts a tender of either oil or meal, the cottonseed equivalent of either the oil or the meal covered by the tender (determined on the basis of the outturn, as provided above) shall be deducted from the quantity of eligible cottonseed against which the crusher may make future tenders. Whenever CCC accepts a single tender combining both oil and meal, such tender having been submitted for consideration on a joint basis, the cottonseed equivalent of the product which represents the greater quantity of cottonseed (determined on the basis of the outturn, as provided above) shall be deducted from the quantity of eligible cottonseed against which the crusher may make future tenders. Notwithstanding any other provisions of this paragraph, the crusher shall not tender any cottonseed oil or meal which, if accepted by CCC, would cause the total quantity of oil or meal tendered to and accepted by CCC and not yet delivered to CCC to exceed the smallest of (1) the quantities of oil or meal which have been or can be produced from eligible cottonseed acquired by the crusher up to the time of the tender, less, with respect to oil only, any quantities thereof which the crusher has sold or contracted to sell to other persons, or (2) the capacity of the mill to produce during a 60-day period of normal operation if such tender is made prior to December 31, 1968, or during a 45-day period of normal operation if such tender is made thereafter, or (3) the quantity of oil or meal which can be produced from the uncrushed eligible cottonseed which he has on hand as of the date of tender: *Provided*, That the crusher may make one or more tenders of oil or meal in excess of the quantity limits stipulated in subparagraph (2) or (3) of this paragraph, but in such event CCC will not accept a total quantity of oil or meal covered by such tender(s) which is in excess of the capacity of the mill to produce during a 15-day period of normal operation.

§ 1443.64 Purchases by CCC.

(a) *Consideration of tenders.* As soon as possible after the final time for submission of tenders on each tender date, CCC will consider all tenders from participating crushers. If CCC determines (1) that the prices stated in a tender are acceptable, and (2) that the tender is otherwise acceptable under this subpart, CCC will accept the tender. If any tender is not acceptable, or if CCC desires only to accept either oil or meal included in any tender of both, CCC may, at its option, make a counteroffer. CCC will notify the crusher of acceptance or rejection of any tender, or make any counteroffer, by a wire filed not later than 4 p.m., c.s.t., on the next working day following the tender date. The crusher's acceptance of the counteroffer by CCC must be received by the New Orleans office within 2 business days after the date of filing of the wire containing CCC's counteroffer.

(b) *Price consideration.* The price stated in a tender, other than a tender in response to an announcement by CCC under § 1443.63(b), will be acceptable to CCC if CCC determines that such price is not in excess of that price necessary to enable crushers within the crusher's generally competitive area to recover, as a group average, the minimum price which participating crushers are required to pay to winners for cottonseed under this subpart plus such margin above such minimum price as CCC deems to be reasonable. In making such determination, and in determining the price at which CCC counteroffers, due consideration will be given to current market prices for cottonseed products (oil, meal, linters, and hulls), and the average product outturns within said area. The crusher shall cooperate with the Consumer and Marketing Service, USDA, in furnishing prices at which he sells cottonseed products in bulk on the wholesale market, and the prices so furnished shall, in accordance with § 900.513(d) of the C&MS regulations governing public information, Part 900 of this title, be exempt from public disclosure.

(c) *Contract of sale.* Each (1) tender by the crusher and acceptance by CCC, or (2) counteroffer by CCC and acceptance by the crusher, as the case may be, shall result in a separate contract for the sale of cottonseed oil or meal. Each contract of sale shall consist of, in addition to the documents specified in subparagraph (1) or (2) of this paragraph, the terms and conditions of this subpart, and the Rules of the National Cottonseed Products Association, Inc. (hereinafter referred to as "NCPA"), in effect on the date as of which the tender is made, except to the extent such rules are inconsistent with the other provisions of this subpart, and except such of those rules which pertain to arbitration and the time for presentation of claims.

(d) *Rules of NCPA—incorporation by reference.* The rules of NCPA referred to in paragraph (c) of this section, except to the extent such rules are inconsistent with the other provisions of this subpart, and except such of those rules which pertain to arbitration and the time for

presentation of claims, are hereby adopted and incorporated by reference into this subpart. Copies of the rules of NCPA may be obtained from NCPA, 2400 Poplar Avenue, Memphis, Tenn. 38112. An official historic file of the rules of NCPA which are incorporated by reference into this subpart will be maintained by the Commodity Operations Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250. Such rules will be available for examination in the offices of that Division.

(e) *Delivery.* Each lot of cottonseed oil or meal purchased by CCC shall be delivered by the crusher f.o.b. cars or trucks (CCC's option) made available without cost to the crusher at crusher's mill. The crusher shall deliver cottonseed oil or meal, as the case may be, crushed from 1968 crop cottonseed produced in the United States. Delivery shall be in car or truck lots in accordance with the delivery schedule specified in the tender or any modification thereof mutually agreed to by the crusher and the New Orleans office, and in accordance with shipping instructions issued by the New Orleans office. CCC shall not be obligated to accept the initial delivery of oil under any tender prior to the expiration of 15 business days after the date of CCC's acceptance of the tender or the crusher's acceptance of the counteroffer (the date of whichever of such acceptances results in a contract is called in this subpart "the date of sale"). CCC shall not be obligated to accept the initial delivery of meal under any tender prior to the expiration of 30 business days after the date of sale. At least 10 percent of the quantity of oil shall be delivered within 30 days after the date of sale, at least 30 percent within 60 days after the date of sale and at least 60 percent within 90 days after the date of sale. In any event, delivery of the total quantity of either oil or meal covered by a tender shall be completed not later than 180 days after the date of sale. Meal shall be delivered in bulk, or, if requested by CCC, in new or used bags at such adjustment in the sale price to reflect the increased cost of delivery in bags as may be mutually agreed upon by the crusher and the New Orleans office. No delivery of oil or meal shall be made after August 29, 1969, unless the New Orleans office and the crusher agree upon a later date for delivery. Title to the cottonseed oil or meal shall pass to CCC upon delivery. In delivering oil under any contract of sale, a variation of one-half of 1 percent above or below the contract quantity will be accepted as a good delivery as to weight. In delivering meal under any contract of sale, a variation of 5 percent above or below the contract quantity will be accepted as good delivery as to weight but the variation shall not exceed 2½ tons.

(f) *Grade of oil.* The cottonseed oil delivered by the crusher shall be basis prime crude cottonseed oil or prime bleachable summer yellow cottonseed oil (as specified in the tender), as defined in the rules of the NCPA: *Provided*, That if, on the basis of sampling and chemical analysis of cottonseed being crushed by the mill at the time for delivery, or be-

cause of other conditions inherent in the cottonseed which are not reflected in sampling and chemical analysis, it is shown to the satisfaction of the New Orleans office that basis prime crude cottonseed oil or prime bleachable summer yellow cottonseed oil cannot be produced, the crusher may deliver crude cottonseed oil of less than prime grade at the agreed sales price, or may deliver once-refined cottonseed oil of prime summer yellow or summer yellow grade at a price mutually agreed upon by the crusher and CCC. The agreed sale price of crude oil shall be adjusted in accordance with the crude oil settlement provisions of the rules of the NCPA.

(g) *Grade of meal and protein content.* The cottonseed meal delivered by the crusher shall be 41-percent protein cottonseed meal, prime quality, as defined in the rules of NCPA, except that (1) less than prime quality meal may be delivered at the agreed sales price less discounts determined in accordance with the rules of the NCPA if, on the basis of sampling and chemical analysis of cottonseed being crushed at the mill at the time for delivery, or because of other conditions inherent in the cottonseed which are not reflected in sampling and chemical analysis, it is shown to the satisfaction of the New Orleans office that prime quality meal cannot be produced, and (2) meal having less than 41-percent protein content may be delivered at market discounts agreed upon by the crusher and CCC, as applied against the sales price for 41-percent protein meal. Meal having in excess of 41-percent protein content may be delivered to CCC at no premium. Notwithstanding any other provision of this subpart, CCC will reject to the crusher any meal which is condemned or disqualified for use as animal feed by the Food and Drug Administration, U.S. Department of Health, Education, and Welfare, or which is subject to such contamination or disqualification, except that CCC will not reject to the crusher meal which is tendered to CCC under § 1443.63(a) because of contamination by aflatoxin: *Provided*, That such contamination did not result from the crusher's failure to exercise due care with respect to either cottonseed acquired by him or meal produced therefrom.

(h) *Provisional payment.* When oil or meal is delivered to CCC, the crusher may present to CCC for provisional payment an invoice, with shipping documents acceptable to CCC attached, for the value of the oil or meal based on origin weights and the agreed sales price.

(i) *Final settlement.* Final settlement for oil or meal delivered to CCC will be made upon the basis of the official analysis and the certified destination outturn weight of the oil or meal determined in accordance with the NCPA rules. The analysis and weighing of oil or meal delivered will be arranged for by CCC at its expense.

§ 1443.65 Information release.

CCC will issue press releases announcing the names, quantities, locations, and prices and such other information as it

deems advisable with respect to all contracts entered into under this subpart and transactions developing therefrom.

§ 1443.66 Movement of cottonseed oil or meal.

CCC shall not be responsible for any loss or injury caused the crusher by failure of CCC to move cottonseed oil or meal promptly, and the crusher shall not be responsible for any failure to deliver or delay in delivery, where such failure or delay on the part of CCC or the crusher is due to any cause without such party's fault or negligence including, but not restricted to, acts of God or the public enemy, storms, floods, conflagrations, strikes, blockades, riots, embargoes, or priority, allocation, service, or other orders or directives issued by the Government, or difficulty in obtaining cars or trucks. Notwithstanding the foregoing provisions, if CCC fails for any reason to issue shipping instructions in accordance with the delivery schedule specified in the tender (or any modification mutually agreed to by the New Orleans office and the crusher), the crusher may have an official analysis or quality determination made of the quantity of oil or meal involved and shall not, after giving timely written notice to CCC accompanied by a copy of such official analysis or quality determination, be responsible for any loss or deterioration in quality subsequent to the date of such official analysis or quality determination except for any loss, deterioration, or damage due to the fault or negligence of the crusher.

§ 1443.67 Books and records.

Each crusher filing an acceptance form under this subpart shall keep accurate books, records, and accounts with respect to all purchases of cottonseed (including the name of seller, date of receipt, weight, and grade of each lot of cottonseed purchased) and all other transactions under this subpart for a period of at least 3 years from the last date any cottonseed oil or meal is delivered by the crusher under this subpart, and shall furnish CCC such information and reports relating thereto as CCC may from time to time request, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942. The crusher shall permit authorized employees of the U.S. Department of Agriculture, and the General Accounting Office, at any time during customary business hours to inspect, examine, audit, and make copies of such books, records, and accounts.

§ 1443.68 Certification of independent price determination.

(a) *Certification of crusher.* By submission of a tender under this subpart, the crusher certifies that:

(1) The prices in his tender have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other crusher or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in his tender have not been knowingly dis-

closed by the crusher and will not knowingly be disclosed by the crusher prior to acceptance, in the case of a tender, directly or indirectly to any other crusher or to any competitor; and

(3) No attempt has been made or will be made by the crusher to induce any other crusher to submit or not to submit a tender for the purpose of restricting competition.

(b) *Certification of person signing.* Each person signing the tender certifies that:

(1) He is the person in the crusher's organization responsible within that organization for the decision as to the prices being offered and that he has not participated, and will not participate, in any action contrary to paragraph (a) (1) through (3) of this section; or

(2) (i) He is not the person in the crusher's organization responsible within that organization for the decision as to the prices being offered but that he has been authorized in writing to act as agent for the persons responsible to such decision in certifying that such persons have not participated, and will not participate, in any action contrary to paragraph (a) (1) through (3) of this section, and as their agent does hereby so certify; and (ii) he has not participated, and will not participate, in any action contrary to paragraph (a) (1) through (3) of this section.

(c) *Deleting or modification.* A tender will not be considered where paragraph (a) (1), (a) (3), or (b) of this section has been deleted or modified. Where paragraph (a) (2) of this section has been deleted or modified, the tender will not be considered unless the crusher furnishes with the tender a signed statement which sets forth in detail the circumstances of the disclosure and CCC determines that such disclosure was not made for the purpose of restricting competition.

§ 1443.69 Parent company.

Each crusher submitting a tender under this subpart shall state whether the crusher is owned or controlled by a parent company, and if so, shall state the name and principal office address of the parent company in the spaces provided on the tender form. The crusher shall also insert in the space provided the Employer's Identification Number (E.I. Number) (Federal Social Security Number used on Employee's Quarterly Federal Tax Return, U.S. Treasury Department Form 941) of the crusher and the parent company (if any). For the purposes of this subpart, a parent company is defined as one which either owns or controls the activities and basic business policies of the participating crusher. To own another company means the parent company must own at least a majority (more than 50 percent) of the voting rights in that company. To control another company, such ownership is not required; if another company is able to formulate, determine, or veto basic business policy decisions of the participating crusher, such other company is considered the parent company

of the bidder. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.

§ 1443.70 Benefits and contingent fees.

(a) *Officials not to benefit.* No member of or Delegate to the Congress of the United States or Resident Commissioner, shall be admitted to any share or part of any contract resulting from tenders of cottonseed oil or meal under this subpart or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such a contract if made with a corporation for its general benefit and shall not extend to any benefits that may accrue from such contract to a Member of or Delegate to the Congress or a Resident Commissioner in his capacity as a producer of cottonseed.

(b) *Contingent fees.* By submitting a tender under this subpart the crusher warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee except bona fide employees or bona fide established commercial or selling agencies maintained by the crusher for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right to annul the contract without liability, or in its discretion to deduct from the contract price of the cottonseed oil or meal the full amount of such commission, percentage, brokerage, or contingent fee.

(c) *Price information.* By submitting a tender under this subpart, the crusher further warrants that he has not employed or utilized any person, firm, or organization which (1) furnished any information or service which might tend to prevent, limit, or restrict competition in the submission of tenders under this subpart, or (2) furnished any assistance to the crusher in the calculation of prices if such person, firm, or organization has assisted or is assisting other persons submitting tenders under this subpart in the calculation of prices (other than prices specified in tenders made pursuant to CCC's offer to purchase oil under § 1443.63(b)).

§ 1443.71 Nondiscrimination in employment.

(a) *Applicability.* The provisions of this section are applicable to any contract of sale which is entered into under this subpart and which is subject to the Equal Opportunity clause of Executive Order 11246 of September 24, 1965.

(b) *Equal employment opportunity.* During the performance of any contract of sale entered into under this subpart, the crusher agrees as follows:

(1) The crusher will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The crusher will take affirmative action to insure that applicants are employed, and that employees are treated during employment,

without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The crusher agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The crusher will, in all solicitations or advertisements for employees placed by or on behalf of the crusher, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The crusher will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the crusher's commitments under this nondiscrimination clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The crusher will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The crusher will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the crusher's non-compliance with the nondiscrimination clause of this contract, or with any of such rules, regulations, or orders, the contract may be canceled, terminated, or suspended in whole or in part and the crusher may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in the said Executive order or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The crusher will include the provisions of subparagraphs (1) through (7) of this paragraph in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The crusher will take such action with respect to any subcontract or purchase order as the contract-

ing agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the crusher becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the crusher may request the United States to enter into such litigation to protect the interests of the United States.

(c) *Certification of nonsegregated facilities.* (Applicable to contracts and subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause.) By the submission of a tender under this subpart, the crusher certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The crusher agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms, and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NON-SEGREGATED FACILITIES

A Certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001 or 15 U.S.C. 714m(a).

The reporting and/or recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 15, 1968.

E. A. JAENKE,
Acting Executive Vice President,
Commodity Credit Corporation.

Incorporation by reference provisions approved by the Director of the Federal Register on July 18, 1968.

[F.R. Doc. 68-8607; Filed, July 18, 1968; 8:48 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart D—Delegations of Basic Authority and Functions

FIELD OFFICE DIRECTORS ET AL.

Section 200.96 is amended to read as follows:

§ 200.96 Field Office Directors, Deputy Directors and Assistant Directors; and Director, Multifamily Housing Insuring Office (New York).

To the position of Field Office Director, and to each of them; and to the position of Deputy Field Office Director, and to each of them; and to the position of Assistant Field Office Director, and to each of them; and with respect to insurance and servicing of multifamily housing project mortgages to the position of Director, Multifamily Housing Insuring Office (New York), there is delegated the following duties and functions:

(a) The duties and functions as set forth in § 200.95.

(b) To act for the Commissioner in determining applicable mortgage limits for communities in the insuring office jurisdiction for all mortgage insurance programs for which the Commissioner is authorized to increase basic mortgage limits provided by law where cost levels so require, except mortgage insurance for mobile home courts under section 207 of the National Housing Act.

(Sec. 2, 48 Stat. 1246, as amended; sec. 211, 52 Stat. 23, as amended; sec. 607, 55 Stat. 61, as amended; sec. 712, 62 Stat. 1281, as amended; sec. 907, 65 Stat. 301, as amended; sec. 807, 69 Stat. 651, as amended; 12 U.S.C. 1703, 1715b, 1742, 1747k, 1748f, 1750f)

Issued at Washington, D.C., July 16, 1968.

PHILIP N. BROWNSTEIN,
Federal Housing Commissioner.

[F.R. Doc. 68-8585; Filed, July 18, 1968; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8994; Amdt. 605]

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 § 97.11 of Subpart B to amend low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

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. 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		Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums		
From—	To—				2-engine or less 65 knots or less	More than 2-engine, more than 65 knots	More than 2-engine, more than 65 knots
Central Int.	ALX RBN	Direct	2200	T-dn	300-1	300-1	NA
Miller Int.	ALX RBN	Direct	2200	C-dn	500-1	500-1	NA
Fayetteville Int.	ALX RBN	Direct	2300	S-dn-306	500-1	500-1	NA
				A-dn	NA	NA	NA

Procedure turn E side of crs, 169° Outbnd, 349° Inbnd, 2200' within 10 miles.

Minimum altitude over facility on final approach crs, 1300'.

Crs and distance, facility to airport, 349°—1.5 miles.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.5 miles after passing ALX RBN, make left climbing turn to 2200', proceed direct to ALX RBN and hold S, 169° Outbnd, 349° Inbnd, 1-minute right turns.

NOTES: (1) Aircraft will cancel flight plan with MGM approach control when landing assured or upon reaching visual flight conditions. Aircraft will not take off under IFR conditions without prior ATC approval. (2) Use Montgomery, Ala., altimeter setting. (3) Airport weather information not available.

#Reduction not authorized.

MSA within 25 miles of facility: 000°-090°—2100'; 090°-180°—2000'; 180°-270°—2100'; 270°-360°—2800'.

City, Alexander City; State, Ala.; Airport name, Thomas C. Russell Field; Elev., 685'; Fae. Class., MHW; Ident., ALX; Procedure No. NDB (ADF) Runway 36, Amdt. 1; Eff. date, 8 Aug. 68; Sup. Amdt. No. Orig.; Dated, 14 Oct. 67

2. By amending § 97.11 of Subpart B to delete low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

Atlanta, Ga.—Atlanta, ADF 1, Amdt. 26, 27 Aug. 1966 (established under Subpart C).
 Atlanta, Ga.—Atlanta, ADF 4, Amdt. 4, 27 Aug. 1966 (established under Subpart C).
 Atlanta, Ga.—Atlanta, ADF 3, Amdt. 3, 27 Aug. 1966 (established under Subpart C).
 Atlanta, Ga.—Atlanta, ADF 2, Amdt. 7, 27 Aug. 1966 (established under Subpart C).
 Mineral Wells, Tex.—Mineral Wells, ADF 1, Amdt. 3, 14 Dec. 1963 (established under Subpart C).
 Paragould, Ark.—Paragould Municipal, Orig., 13 June 1968 (established under Subpart C).
 Atlanta, Ga.—Atlanta, VOR 2, Amdt. 4, 27 Aug. 1966 (established under Subpart C).
 Lufkin, Tex.—Angelina County, VOR 1, Amdt. 8, 19 June 1965 (established under Subpart C).
 Mineral Wells, Tex.—Mineral Wells, VOR Runway 31, Amdt. 6, 4 Mar. 1967 (established under Subpart C).
 Sherman, Tex.—Sherman Municipal, VOR Runway 16, Orig., 21 Mar. 1964 (established under Subpart C).

3. By amending § 97.17 of Subpart B to delete instrument landing system (ILS) procedures as follows:

Atlanta, Ga.—Atlanta, ILS-9L, Amdt. 29, 19 Nov. 1966 (established under Subpart C).
 Atlanta, Ga.—Atlanta, ILS Runway 9R, Amdt. 8, 16 Sept. 1967 (established under Subpart C).
 Atlanta, Ga.—Atlanta, Dual ILS, Runways 9L and 9R, Amdt. 6, 16 Sept. 1967 (established under Subpart C).
 Atlanta, Ga.—Atlanta, ILS-27L, Amdt. 1, 2 Apr. 1966 (established under Subpart C).
 Atlanta, Ga.—Atlanta, ILS-33, Amdt. 11, 19 Nov. 1966 (established under Subpart C).

4. By amending § 97.19 of Subpart B to delete radar procedures as follows:

Atlanta, Ga.—Atlanta, Radar 1, Amdt. 11, 27 Aug. 1966 (established under Subpart C).

5. By amending § 97.23 of Subpart C to establish very high frequency omnirange (VOR) and very high frequency-distance measuring equipment (VOR/DME) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR. 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. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 7.7 miles Runways 27L, or 7.2 miles Runways 27R after passing REG VORTAC.
				27L—Climbing left turn to 3000' direct to ATL VORTAC. 27R—Climb to 3000', R 270° REG VORTAC. Supplementary charting information: TDZ elevation, 27L, 981'; 27R, 996'.

Procedure turn S side of crs, 090° Outbnd, 270° Inbnd, 2500' within 10 miles of REG VORTAC.
FAF, REG VORTAC. Final approach crs, 263°—27L; 270°—27R. Distance FAF to MAP, 7.7 miles—27L; 7.2 miles—27R.
Minimum altitude over REG VORTAC, 2500'; over ATL NDB, 1480'; over Karen Int, 1500'.
MSA: 000°—090°—3100'; 090°—180°—2300'; 180°—270°—2300'; 270°—360°—3100'.
NOTE: ASR.
%RVR 24 authorized Runways 9L, 33.
%RVR 18 authorized Runway 9R for Category A, B, and C.
%RVR 20 authorized Runway 9R for Category D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27L	1500	RVR 40	519	1500	RVR 40	519	1500	RVR 40	519	1500	RVR 50	519
S-27R	1480	¾	484	1480	¾	484	1480	¾	484	1480	1	484
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1560	1	536	1560	1	536	1560	1½	536	1580	2	556
VOR/NDB:												
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27L	1400	RVR 40	419	1400	RVR 40	419	1400	RVR 40	419	1400	RVR 50	419
S-27R	1400	¾	404	1400	¾	404	1400	¾	404	1400	1	404
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1½	476	1580	2	556
A	Standard.			T 2-eng. or less—Standard. %			T over 2-eng.—Standard. %					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility, REG; Procedure No. VOR Runways 27L and 27R, Amdt. 5; Eff. date, 8 Aug. 68; Sup. Amdt. No. VOR 2, Amdt. 4; Dated, 27 Aug. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.3 miles after passing LFK VORTAC.
10-mile DME	LFK VOR (NOPT)	LFK R 153°	1500	Climb to 2000' on LFK VORTAC R 329°
10-mile DME	LFK VOR (NOPT)	LFK R 168°	1500	within 15 miles.
10-mile DME	LFK VOR (NOPT)	LFK R 138°	1500	Supplementary charting information: TDZ elevation, 286'.

Procedure turn E side of crs, 140° Outbnd, 329° Inbnd, 1800' within 10 miles of LFK VORTAC.
FAF, LFK VORTAC. Final approach crs, 329°. Distance FAF to MAP, 4.3 miles.
Minimum altitude over LFK VORTAC, 1500'.
MSA 25 miles LFK VORTAC: 000°—090°—1900'; 090°—180°—1700'; 180°—270°—1800'; 270°—360°—2000'.
CAUTION: Category B, C, D, aircraft check runway load bearing ability.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-33	640	1	354	640	1	354	640	1	354	640	1	354
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	700	1	410	740	1	450	740	1½	450	840	2	550
A	Standard.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.					

City, Lufkin; State, Tex.; Airport name, Angelina County; Elev., 290'; Facility, LFK; Procedure No. VOR Runway 33, Amdt. 9; Eff. date, 8 Aug. 68; Sup. Amdt. No. VOR 1, Amdt. 8; Dated, 19 June 65

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach	
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.3 miles after passing MWL VORTAC.	
				Climb to 2500' on R 308° within 20 miles. Supplementary charting information: TDZ elevation, 964'.	

Procedure turn S side of crs, 128° Outbnd, 308° Inbnd, 2500' within 10 miles of MWL VORTAC.
FAF, MWL VORTAC. Final approach crs, 308°. Distance FAF to MAP, 4.3 miles.
Minimum altitude over MWL VORTAC, 2000'.
MSA: 000°-360°-2500'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31.....	1320	1	356	1320	1	356	1320	1	356	1320	1	356
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C.....	1360	1	396	1420	1	456	1420	1½	456	1520	2	556
A.....	Standard.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.					

City, Mineral Wells; State, Tex.; Airport name, Mineral Wells; Elev., 964'; Facility, MWL; Procedure No. VOR Runway 31, Amdt. 7; Eff. date, 8 Aug. 68; Sup. Amdt. No. 6, Dated, 4 Mar. 67

Terminal routes				Missed approach	
From—	To—	Via	Minimum altitudes (feet)	MAP: 6.9 miles after passing PNK VOR.	
Gunter Int.....	PNK VOR.....	Direct.....	2500	Climb to 2500' on R 130° within 20 miles.	

Procedure turn E side of crs, 331° Outbnd, 151° Inbnd, 2500' within 10 miles of PNK VOR.
FAF, PNK VOR. Final approach crs, 130°. Distance FAF to MAP, 6.9 miles.
Minimum altitude over PNK VOR, 2000'.
MSA: 000°-090°-2200'; 090°-180°-2100'; 180°-270°-2300'; 270°-360°-2900'.
*Use Perrin AFB altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	VIS			VIS		
C*.....	1460	1	715	1460	1	715	NA			NA		
A.....	Not authorized.			T 2-eng. or less—Standard.			T over 2-eng.—standard.					

City, Sherman; State, Tex.; Airport name, Sherman Municipal; Elev., 745'; Facility, PNK; Procedure No. VOR Runway 16, Amdt. 1; Eff. date, 8 Aug. 68; Sup. Amdt. No. 1, Dated, 21 Mar. 64

6. By amending § 97.23 of Subpart C to amend very high frequency omnirange (VOR) and very high frequency-distance measuring equipment (VOR/DME) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Cellings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
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. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach	
From—	To—	Via	Minimum altitudes (feet)	MAP: Upon descent to MDA after completion of procedure turn.	
UN LFR.....	UNK VOR.....	Direct.....	2800	If visual contact not established upon descent to MDA, turn left, climb to 2800' on R 205° within 15 miles. Supplementary charting information: Terrain rising to 710', 1.9 miles NE of airport; 500', 1 mile NE of airport.	

Procedure turn N side of crs, 205° Outbnd, 025° Inbnd, 1000' within 15 miles of UNK VOR.
Shuttle descent below 2800' not authorized. Proceed Outbnd 5 miles on R 205° not below 1800' before starting procedure turn.
Final approach crs, 025°.
Descent to MDA immediately after completion of procedure turn.
MSA: 000°-090°-3000'; 090°-180°-4100'; 180°-270°-2900'; 270°-360°-3100'.
NOTES: (1) Visual flight required from missed approach point to airport. (2) Maneuvering N through E of airport not authorized.
#Air carrier reduction not authorized.
\$Reduction in visibility not authorized.

RULES AND REGULATIONS

10321

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C-dn.....	500	2	479	500	2	479	500	2	479	580	2	559
A.....	Standard.\$			T 2-eng. or less—Standard.#			T over 2-eng.—Standard.#					

City, Unalakleet; State, Alaska; Airport name, Unalakleet; Elev., 21'; Facility, UNK; Procedure No. VOR-1, Amdt. 3; Eff. date, 8 Aug. 68; Sup. Amdt. No. 2; Dated, 27 June 6

7. By amending § 97.25 of Subpart C to establish localizer (LOC) and localizer-type directional aid (LDA) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Cellings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

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. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach	
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.2 miles after passing Conley Int.	
Lakeside LOM.....	Conley Int.....	Direct.....	2500	Climbing left turn to 3000' direct to ATL VORTAC. Supplementary charting information: No glide slope. TDZ elevation, 981'.	
Red Oak LOM.....	Conley Int.....	Direct.....	2500		
REG VORTAC.....	Conley Int (NOPT).....	Direct.....	2000		

Procedure turn S side of crs, 089° Outbnd, 269° Inbnd, 2500' within 10 miles of Conley Int.

FAF, Conley Int. Final approach crs, 269°. Distance FAF to Map, 5.2 miles.

Minimum altitude over Conley Int, 2000'.

Note: ASR.

% RVR 24 authorized Runways 9L, 33.

% RVR 18 authorized Runway 9R for Category A, B, and C.

% RVR 20 authorized Runway 9R for Category D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
LOC:												
S-27L.....	1400	RVR 40	419	1400	RVR 40	419	1400	RVR 40	419	1400	RVR 50	419
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C.....	1500	1	476	1500	1	476	1500	1½	476	1580	2	556
A.....	Standard.			T 2-eng. or less—Standard.%			T over 2-eng.—Standard.%					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility, I-ALR; Procedure No. LOC (BC) Runway 27L, Amdt. 2; Eff. date, 8 Aug. 68; Sup. Amdt. No. ILS-27L, Amdt. 1; Dated, 2 Apr. 66

8. By amending § 97.27 of Subpart C to establish nondirectional beacon (automatic direction finder) (NDB/ADF) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

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

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. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal Routes				Missed approach	
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.2 miles after passing Lakeside LOM.	
Atlanta NDB.....	Lakeside LOM.....	Direct.....	2700	Climbing left turn to 3000' direct Tucker Int via ATL VOR, R 033°. Supplementary charting information: TDZ elevation, 1024'.	
Atlanta VORTAC.....	Lakeside LOM.....	Direct.....	2700		
Harrison Int.....	Lakeside LOM.....	Direct.....	3000		
Chattahoochee Int.....	Lakeside LOM (NOPT).....	Direct.....	2700		

Procedure turn S side of crs, 260° Outbnd, 089° Inbnd, 2700' within 10 miles of Lakeside LOM (AT).

FAF, Lakeside LOM. Final approach crs, 089°. Distance FAF to MAP, 5.2 miles.

Minimum altitude over Lakeside LOM, 2700'.

MSA: 000°-090°-3100'; 090°-180°-2200'; 180°-270°-2700'; 270°-360°-2900'.

NOTE: ASR.

% RVR 24 authorized Runways 9L, 33.

% RVR 18 authorized Runways 9R for Category A, B, and C.

% RVR 20 authorized Runway 9R for Category D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9L.....	1520	RVR 40	496	1520	RVR 40	496	1520	RVR 40	496	1520	RVR 50	496
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C.....	1520	1	496	1520	1	496	1520	1½	496	1580	2	556
A.....	Standard.			T 2-eng. or less—Standard %.			T over 2-eng.—Standard %.					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility, AT; Procedure No. NDB (ADF) Runway 9L, Amdt. 27; Eff. date, 8 Aug. 68; Sup. Amdt. No. ADF 1, Amdt. 26; Dated, 27 Aug. 66

Terminal routes				Missed approach	
From—	To—	Via	Minimum altitudes (feet)	MAP: 5 miles after passing Red Oak LOM	
Atlanta NDB.....	Red Oak LOM.....	Direct.....	2500	Climbing right turn to 3000' direct to ATL VORTAC and hold. Supplementary charting information: Hold S., 1-minute right turns, 354° Inbnd. TDZ elevation, 1016'.	
Atlanta VORTAC.....	Red Oak LOM.....	Direct.....	2500		
Harrison Int.....	Red Oak LOM.....	Direct.....	3000		
Chattahoochee Int.....	Red Oak LOM (NOPT).....	Direct.....	2500		

Procedure turn S side of crs, 260° Outbnd, 089° Inbnd, 2500' within 10 miles of Red Oak LOM (AL).

FAF, Red Oak LOM. Final approach crs, 089°. Distance FAF to MAP, 5 miles.

Minimum altitude over Red Oak LOM, 2500'.

MSA: 000°-090°-3100'; 090°-180°-2300'; 180°-270°-2700'; 270°-360°-2900'.

NOTE: ASR.

% RVR 24 authorized Runways 9L, 33.

% RVR 18 authorized Runway 9R for Category A, B, and C.

% RVR 20 authorized Runway 9R for Category D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9R.....	1520	RVR 40	504	1520	RVR 40	504	1520	RVR 40	504	1520	RVR 60	504
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C.....	1520	1	496	1520	1	496	1520	1½	496	1580	2	556
A.....	Standard.			T 2-eng. or less—Standard %.			T over 2-eng.—Standard %.					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility, AL; Procedure No. NDB (ADF) Runway 9R, Amdt. 5; Eff. date, 8 Aug. 68; Sup. Amdt. No. ADF, Amdt. 4; Dated, 27 Aug. 66

RULES AND REGULATIONS

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STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes			Minimum altitudes (feet)	Missed approach MAP: 5.3 miles Runway 27L, or 4.7 miles Runway 27R after passing ATL NDB.
From—	To—	Via		
Lakeside LOM.....	ATL NDB.....	Direct.....	2500	27L—Climbing left turn to 3000' direct to
Red Oak LOM.....	ATL NDB.....	Direct.....	2500	ATL VORTAC.
Jonesboro LOM.....	ATL NDB.....	Direct.....	2500	27R—Climb to 3000' on bearing of 270°
ATL VORTAC.....	ATL NDB.....	Direct.....	2500	from ATL NDB.
McDonough Int.....	ATL NDB.....	Direct.....	2500	Supplementary charting information: TDZ
REG VORTAC.....	ATL NDB (NOPT).....	Direct.....	2000	elevation, 27L, 981'; 27R, 996'.

Procedure turn S side of crs, 090° Outbnd, 270° Inbnd, 2500' within 10 miles of ATL NDB.
FAF, ATL NDB. Final approach crs, 261°—27L; 270°—27R. Distance FAF to MAP, 5.3 miles—27L; 4.7 miles—27R.
Minimum altitude over ATL NDB, 2000'.
MSA: 000°—090°—3100'; 090°—180°—2300'; 180°—270°—2300'; 270°—360°—3100'.
Note: ASR.
% RVR 24 authorized Runways 9L, 33.
% RVR 18 authorized Runway 9R for Category A, B, and C.
% RVR 20 authorized Runway 9R for Category D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27L.....	1460	1	479	1460	1	479	1460	1	479	1460	1	479
S-27R.....	1460	1	464	1460	1	464	1460	1	464	1460	1	464
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C.....	1500	1	476	1500	1	476	1500	1½	476	1580	2	556
A.....	Standard.			T 2-eng. or less—Standard. %			T over 2-eng.—Standard. %					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility ATL; Procedure No. NDB (ADF) Runway 27L and 27R Amdt. 4; Eff. date, 8 Aug. 68; Sup. Amdt. No. ADF 3, Amdt. 3; Dated, 27 Aug. 66

Terminal routes			Minimum altitudes (feet)	Missed approach MAP: 4.3 miles after passing Jonesboro LOM.
From—	To—	Via		
Atlanta VORTAC.....	Jonesboro LOM.....	Direct.....	2200	Climbing right turn to 3000' direct to REG
Tucker Int.....	Jonesboro LOM.....	Direct.....	3000	VORTAC.
Harrison Int.....	Jonesboro LOM.....	Direct.....	3000	Supplementary charting information: TDZ
McDonough Int.....	Jonesboro LOM (NOPT).....	Direct.....	2200	elevation, 986'.

Procedure turn E side of crs, 149° Outbnd, 329° Inbnd, 2200' within 10 miles of Jonesboro LOM (AZ).
FAF, Jonesboro LOM. Final approach crs, 329°. Distance FAF to MAP, 4.3 miles.
Minimum altitude over AZ LOM, 2200'.
MSA: 000°—090°—3100'; 090°—180°—2300'; 180°—270°—2700'; 270°—360°—3100'.
Note: ASR.
% RVR 24 authorized Runways 9L, 33.
% RVR 18 authorized Runway 9R for Category A, B, and C.
% RVR 20 authorized Runway 9R for Category D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-33.....	1380	RVR 40	394	1380	RVR 40	394	1380	RVR 40	394	1380	RVR 50	394
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C.....	1500	1	476	1500	1	476	1500	1½	476	1580	2	556
A.....	Standard.			T 2-eng. or less—Standard. %			T over 2-eng.—Standard. %					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility, AZ; Procedure No. NDB (ADF) Runway 33, Amdt. 8; Eff. date, 8 Aug. 68; Sup. Amdt. No. ADF 2, Amdt. 7; Dated, 27 Aug. 66

RULES AND REGULATIONS

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: MWL NDB.
MWL VORTAC.....	MWL NDB.....	Direct.....	2500	Climb to 2500' on bearing of 311° within 20 miles. Supplementary charting information: TDZ elevation, 964'.

Procedure turn S side of crs, 131° Outbnd, 311° Inbnd, 2500' within 10 miles of MWL NDB.
Final approach crs, 311°.
Minimum altitude over MWL NDB, 1420'.
MSA: 000°-270°-2500'; 270°-360°-2800'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31.....	1420	1	456	1420	1	456	1420	1	456	1420	1	456
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C.....	1420	1	456	1420	1	456	1420	1½	456	1520	2	556
A.....	Standard.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.					

City, Mineral Wells; State, Tex.; Airport name, Mineral Wells; Elev., 964'; Facility, MWL; Procedure No. NDB (ADF) Runway 31, Amdt. 4; Eff. date, 8 Aug. 68; Sup. Amdt No. ADF 1, Amdt. 3; Dated, 14 Dec. 63

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: PGR NDB.
AGR VORTAC.....	PGR NDB.....	Direct.....	2100	Climb to 2100', left turn direct PGR NDB and hold. Supplementary charting information: Hold S of PGR NDB on bearing 230°-030° inbnd, 1-minute left turns.

Procedure turn W side of crs, 230° Outbnd, 050° Inbnd, 2100' within 10 miles of PGR NDB.
Final approach crs, 050°.
Minimum altitude over PGR NDB, 1000'.
MSA: 000°-360°-2000'.
NOTE: Use Walnut Ridge, Ark., FSS altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S-05.....	1000	1	709	1000	1	709	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C.....	1000	1	709	1000	1	709	NA	NA
A.....	Not authorized.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.	

City, Paragould; State, Ark.; Airport name, Paragould Municipal; Elev., 291'; Facility, PGR; Procedure No. NDB (ADF) Runway 5, Amdt. 1; Eff. date, 8 Aug. 68; Sup. Amdt. No. Orig.; Dated, 13 June 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 2.9 miles after passing TAD NDB.
Rattlesnake Int.....	Cordova Int.....	Direct.....	8000	Climbing left turn to 7600' direct to TAD NDB. Hold N on the 339° bearing of TAD NDB. Supplementary charting information: Final approach to intersection of runways. \$Chart in Plan View.
Cordova Int.....	Trinidad NDB (NOPT).....	Direct.....	6700	
Garcia Int.....	Trinidad NDB.....	Direct.....	8000	
Tobe VORTAC.....	Trinidad NDB.....	Direct.....	8800	

Procedure turn E side of crs, 339° Outbnd, 159° Inbnd, 7600' within 10 miles of TAD NDB.
FAF, TAD NDB. Final approach crs, 173°. Distance FAF to MAP, 2.9 miles.
Minimum altitude over TAD NDB, 6700'.
MSA: 000°-090°-7500'; 090°-180°-10,700'; 180°-360°-13,800'.
CAUTION: Abruptly rising terrain 8 miles SSW, 9629' terrain 12 miles SSW of airport.
%IFR departure procedures: Takeoff all runways, shuttle climb on 339° bearing from TAD NDB within 10 miles to minimum crossing altitude required for direction of flight: 160° clockwise to 225°, 8,200'; 225° clockwise to 290°, 11,500'.
*Night circling minimums to Runways 3-21 only.
\$Final approach from holding pattern not authorized at TAD NDB; procedure turn required.

RULES AND REGULATIONS

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DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C.....	6120	1	359	6220	1	459	6220	1½	459	NA
A.....	Standard.			T 2-eng. or less—Standard. %			T over 2-eng.—Standard. %			

City, Trinidad; State, Colo.; Airport name, Las Animas County; Elev., 5761'; Facility, TAD; Procedure No. NDB (ADF)-1, Amdt Orig.; Eff. date, 8 Aug. 68

9. By amending § 97.27 of Subpart C to amend nondirectional beacon (automatic direction finder) (NDB/ADF) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

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

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. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach	
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.4 miles after passing AN LOM.	
AC LFR.....	AN LOM.....	Direct.....	1500	Climbing right turn to 1500' direct to AN LOM or, when directed by ATC, right-climbing turn to 1500' on S crs AC LFR within 15 miles. Supplementary charting information: Radar antenna 368', 1.1 miles, SW, Runway 6, Antenna 275', 0.9 mile W, Runway 13, TV antenna 488', 1.5 miles, NE, Runway 24.	
Delta Island Int.....	AN LOM (NOPT).....	Direct.....	1500		

Procedure turn S side of crs, 244° Outbnd, 064° Inbnd, 1500' within 10 miles of AN LOM.

FAF, AN LOM. Final approach crs, 064°. Distance FAF to MAP, 4.4 miles.

Minimum altitude over AN LOM, 1300'.

MSA: 000°-090°-8000'; 090°-180°-6400'; 180°-270°-3000'; 270°-360°-5400'.

Notes: (1) ASR. (2) IFR departures must comply with published Anchorage SID's.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-8.....	680	RVR 40	559	680	RVR 40	559	680	RVR 40	559	680	RVR 50	559
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C.....	680	1	559	680	1	559	800	1½	679	800	2	679
A.....	Standard.			T 2-eng or less—Standard.			T over 2-eng.—Standard.					

City, Anchorage; State, Alaska; Airport name, Anchorage International; Elev., 121'; Facility, AN; Procedure No. NDB (ADF) Runway 6, Amdt. 19; Eff. date, 8 Aug. 68; Sup. Amdt. No. 18; Dated, 18 Apr. 68

Terminal routes				Missed approach	
From—	To—	Via	Minimum altitudes (feet)	MAP: EMV NDB	
McKenney Int.....	Emporia NDB.....	Direct.....	2000	Make climbing right turn to 1600' direct to the EMV NDB and hold. Supplementary charting information: Hold SE of EMV NDB, 1-minute right turns, 321° Inbnd.	
Mason Int.....	Emporia NDB.....	Direct.....	2000		
Lawrenceville VOR.....	Emporia NDB.....	Direct.....	2000		

Procedure turn E side of crs, 141° Outbnd, 321° Inbnd, 1600' within 10 miles of Emporia NDB.

Final approach crs, 321°.

Minimum altitude over EMV NDB, 660'.

MSA: 000°-090°-1400'; 090°-180°-1500'; 180°-270°-1700'; 270°-360°-1800'.

Note: Use Blackstone, Va., altimeter setting.

*When Blackstone, Va., altimeter setting not available, use Richmond, Va., altimeter setting and increase circling and straight-in MDA's by 100', and increase straight-in visibility minimums by ¼ mile for Category C aircraft.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-33 ^a	660	1	534	660	1	534	660	1	534	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C ^a	660	1	534	660	1	534	660	1½	534	NA
A.....	Not authorized.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.			

City, Emporia; State, Va.; Airport name, Emporia Municipal; Elev., 126'; Facility, EMV; Procedure No. NDB (ADF) Runway 33, Amdt. 1; Eff. date, 8 Aug. 68; Sup. Amdt. No. Orig.; Dated, 23 May 68

RULES AND REGULATIONS

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach	
From—	To—	Via	Minimum altitudes (feet)	MAP: HTL NDB.	
Lake City Int.	HTL NDB	Direct	2900	Climb to 2900' turn right and return to NDB.	

Procedure turn N side of crs, 085° Outbnd, 265° Inbnd, 2900' within 10 miles of HTL NDB.
 Final approach crs, 265°.
 Minimum altitude over HTL NDB, 1740'.
 MSA: 000°-090°-2800'; 090°-180°-2200'; 180°-270°-2600'; 270°-360°-2800'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D	
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS	
S-27	1740	1	590	1740	1	590	1740	1	590	NA	
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA		
C	1740	1	590	1740	1	590	1740	1½	590	NA	
A	Not authorized.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.				

City, Houghton Lake; State, Mich.; Airport name, Roscommon County; Elev., 1150'; Facility, HTL; Procedure No. NDB (ADF) Runway 27, Amdt. 1; Eff. date, 8 Aug. 68; Sup. Amdt. No. Orig.; Dated, 28 Mar. 68 pending commissioning of facility

10. By amending § 97.29 of Subpart C to establish instrument landing system (ILS) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Cellings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

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. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach	
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 1324. LOC 5.2 miles after passing AT LOM.	
ATL NDB	Lakeside LOM	Direct	2700	Climbing left turn to 3000' direct to Tucks Int via ATL VORTAC, R 033°. Supplementary charting information: Back crs unusable. TDZ elevation, 1024'.	
ATL VORTAC	Lakeside LOM	Direct	2700		
Harrison Int.	Lakeside LOM	Direct	3000		
Chattahoochee Int.	Lakeside LOM (NOPT)	Direct	2700		

Procedure turn S side of crs, 260° Outbnd, 080° Inbnd, 2700' within 10 miles of Lakeside LOM.
 FAF, Lakeside LOM. Final approach crs, 080°. Distance FAF to MAP, 5.2 miles.
 Minimum glide slope interception altitude, 2700'. Glide slope altitude at OM, 2660'; at MM, 1236'.
 Distance to runway threshold at OM, 5.2 miles; at MM, 0.5 mile.
 MSA: 000°-090°-3100'; 090°-180°-2200'; 180°-270°-2700'; 270°-360°-2900'.

Note: ASR.

% RVR 24 authorized Runways 9L, 33.

% RVR 18 authorized Runway 9R for Category A, B, and C.

% RVR 20 authorized Runway 9R for Category D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-9L	1324	RVR 40	200	1324	RVR 40	200	1324	RVR 40	200	1324	RVR 40	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9L	1400	RVR 40	376	1400	RVR 40	376	1400	RVR 40	376	1400	RVR 50	376
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1½	476	1580	2	555
A	Standard.			T 2-eng. or less—Standard.%			T over 2-eng.—Standard.%					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility, I-ATL; Procedure No. ILS 9L, Amdt. 30; Eff. date, 8 Aug. 68; Sup. Amdt. No. ILS-9L, Amdt. 29; Dated, 19 Nov. 66

STANDARD INSTRUMENT APPROACH PROCEDURE—Type ILS—Continued

Terminal routes			Minimum altitudes (feet)	Missed approach
From—	To—	Via		
ATL NDB	Red Oak LOM	Direct	2500	MAP: CAT I, ILS DH, 1216. LOC 5 miles after passing Red Oak LOM. CAT II, if no contact with visual guidance system at DH. Climbing right turn to 3000' direct to ATL VORTAC and hold. Supplementary charting information: Hold S, 1-minute right turns, 354° Inbnd. TDZ elevation, 1016'.
ATL VORTAC	Red Oak LOM	Direct	2500	
Harrison Int.	Red Oak LOM	Direct	3000	
Chattahoochee Int.	Red Oak LOM (NOPT)	Direct	2500	

Procedure turn S side of crs, 269° Outbnd, 089° Inbnd, 2500' within 10 miles of Red Oak LOM (AL).
FAF, Red Oak LOM. Final approach crs, 089°. Distance FAF to MAP, 5 miles.
Minimum glide slope interception altitude, 2500'. Glide slope altitude at OM, 2439'; at MM, 1227'; at IM, 1116'.
Distance to runway threshold at OM, 5 miles; at MM, 0.6 mile; at IM, 1110'.
MSA: 000°-090°-3100'; 090°-180°-2300'; 180°-270°-2700'; 270°-360°-2900'.
NOTE: ASR.
%RVR 24 authorized Runways 9L, 33.
%RVR 18 authorized Runway 9R for Category A, B, and C.
%RVR 20 authorized Runway 9R for Category D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-9R	1216	RVR 18	200	1216	RVR 18	200	1216	RVR 18	200	1216	RVR 20	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9R	1480	RVR 24	464	1480	RVR 24	464	1480	RVR 24	464	1480	RVR 40	464
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1½	476	1580	2	556

Category II, Special authorization required. TDZ elevation, 1016'. S-dn-9R DH 1166', RVR 1600', RA 153', S-N-9R DH 1116', RVR 1200', RA 104'.
A..... Standard. T 2-eng. or less—Standard.%. T over 2-eng.—Standard.%

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility, I-ALR; Procedure No. ILS Runway 9R, Amdt. 9; Eff. date, 8 Aug. 68; Sup. Amdt. No. 8; Dated, 16 Sept. 67

Terminal routes			Minimum altitudes (feet)	Missed approach
From—	To—	Via		
				MAP: 09R—ILS DH 1216, 09L—ILS DH 1324. 9R—Climbing right turn to 3000' direct to ATL VORTAC and hold. 9L—Climbing left turn to 3000' direct Tucker Int via ATL VOR, R 033°. Supplementary charting information: 9R—Hold S., 1-minute right turns, 354° Inbnd. 9L—Back crs unusable. TDZ elevation, 9R—1016'; 9L—1024'.

Radar vector to intercept final approach crs at established vectoring altitudes.
Procedure turn not authorized.
FAF, AL, or AT LOM. Final approach crs, 089°. Distance FAF to MAP, 9R—5 miles; 9L—5.2 miles.
Altitudes as advised by radar controller.
Minimum glide slope interception altitude, 9R—2500'; 9L—3500'.* Glide slope altitude at OM, 9R—2439'; 9L—2660'; at MM, 9R—1227'; 9L—1236'.
Distance to runway threshold at OM, 9R—5 miles; 9L—5.2 miles; at MM, 9R—0.6 mile; 9L—0.5 mile.
MSA: 000°-090°-3100'; 090°-180°-2300'; 180°-270°-2700'; 270°-360°-2900'.
NOTE: Radar required.
*Or as directed by Radar Controller.
%RVR 24 authorized Runways 9L, 33.
%RVR 18 authorized Runway 9R for Category A, B, and C.
%RVR 20 authorized Runway 9R for Category D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-9R	1216	RVR 18	200	1216	RVR 18	200	1216	RVR 18	200	1216	RVR 20	200
S-9L	1324	RVR 40	200	1324	RVR 40	200	1324	RVR 40	200	1324	RVR 40	200
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1½	476	1580	2	556

A..... Standard. T 2-eng. or less—Standard.%. T over 2-eng.—Standard.%

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility, I-ALR, I-ATL; Procedure No. Dual ILS, Runways 9L and 9R, Amdt. 7; Eff. date, 8 Aug. 68; Sup. Amdt. No. 6; Dated, 16 Sept. 67

RULES AND REGULATIONS

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Terminal routes			Minimum altitudes (feet)	Missed approach MAP: ILS DH, 1185, LOC 4.2 miles after passing Jonesboro LOM.
From—	To—	Via		
ATL VORTAC.....	Jonesboro LOM.....	Direct.....	2200	Climbing right turn to 3000' direct REG
Tucker Int.....	Jonesboro LOM.....	Direct.....	3000	VORTAC.
Harrison Int.....	Jonesboro LOM.....	Direct.....	3000	Supplementary charting information:
McDonough Int.....	Jonesboro LOM (NOPT).....	Direct.....	2200	Localizer back crs unusable, TDZ elevation, 986'.

Procedure turn E side of crs, 140° Outbnd, 329° Inbnd, 2200' within 10 miles of Jonesboro LOM (AZ).
FAF, Jonesboro LOM. Final approach crs, 329°. Distance FAF to MAP, 4.2 miles.
Minimum glide slope interception altitude, 2200'. Glide slope altitude at OM, 2140'; at MM, 1185'.
Distance to runway threshold at OM, 4.2 miles; at MM, 0.5 mile.
MSA: 000°-090°-3100'; 090°-180°-2300'; 180°-270°-2700'; 270°-360°-3100'.
NOTE: ASR.
% RVR 24 authorized Runways 9L, 33.
% RVR 18 authorized Runway 9R or Category A, B, and C.
% RVR 20 authorized Runway 9R for Category D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-33.....	1186	RVR 24	200	1186	RVR 24	200	1186	RVR 24	200	1186	RVR 24	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-33.....	1280	RVR 24	294	1280	RVR 24	294	1280	RVR 24	294	1280	RVR 40	294
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C.....	1500	1	476	1500	1	476	1500	1½	476	1580	2	456
A.....	Standard.			T 2-eng. or less—Standard. %			T over 2-eng.—Standard. %					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility, I-AZA; Procedure No. ILS Runway 33, Amdt. 12; Eff. date, 8 Aug. 68; Sup. Amdt. No. ILS-33, Amdt. 11; Dated, 19 Nov. 66

11. By amending § 97.29 of Subpart C to amend instrument landing system (ILS) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
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. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes			Minimum altitudes (feet)	Missed approach MAP: ILS DH 321', LOC 4 miles after passing AN LOM.
From—	To—	Via		
AC LFR.....	AN LOM.....	Direct.....	1500	Climb straight ahead to 500', turn right, climbing to 1500' on the S crs of the AC LFR within 15 miles or, when directed by ATC, climb straight ahead to 500', turn right, proceed direct to the AN LOM via the SW crs of the ANC LOC, climbing to 1500' within 15 miles of AN LOM. Supplementary charting information: Radar antenna 368', 1.1 miles SW Runway 6. Antenna 275', 0.9 mile W, Runway 13. TV antenna 488', 1.5 miles NE, Runway 24.
Delta Island Int.....	AN LOM (NOPT).....	KE LFR N crs and SW crs ANC LOC.....	1500	
ANC VOR.....	AN LOM.....	Direct.....	1500	

Procedure turn S side of crs, 244° Outbnd, 064° Inbnd, 1500' within 10 miles of AN LOM.
FAF, AN LOM. Final approach crs, 064°. Distance FAF to MAP, 4 miles.
Minimum glide slope interception altitude, 1490'. Glide slope altitude at OM, 1490'; at MM, 330'.
Distance to runway threshold at OM, 4.4 miles; at MM, 0.6 mile.
MSA: 000°-090°-8000'; 090°-180°-6400'; 180°-270°-3000'; 270°-360°-5400'.

NOTES: (1) ASR. (2) IFR departures must comply with published Anchorage SID's.
*700-2 Category C and D.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-6.....	321	RVR 24	200	321	RVR 24	200	321	RVR 24	200	321	RVR 24	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-6.....	440	RVR 24	319	440	RVR 24	319	440	RVR 24	319	440	RVR 40	319
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C.....	680	1	559	680	1	559	800	1½	679	800	2	679
A.....	Standard Category A & B.*			T 2-eng. or less—RVR 24 Runway 6, 1 mile for all others.			T over 2-eng.—RVR 24 Runway 6, ½ mile for all others					

City, Anchorage; State, Alaska; Airport name, Anchorage International; Elev., 121'; Facility, I-ANC; Procedure No. ILS Runway 6, Amdt. 16; Eff. date, 8 Aug. 68; Sup. Amdt. No. 15; Dated, 18 Apr. 68

12. By amending § 97.31 of Subpart C to establish precision approach radar (PAR) and airport surveillance radar (ASR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

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

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 authorized for such airport by the Administrator. Initial approach 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.

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)

From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Notes
070°	290°	15	2500									FAF all ASR runways, 5 miles from thresholds.
290°	070°	15	3000									% RVR 24 authorized Runways 9L, 33.
000°	360°	15-25	3000									% RVR 18 authorized Runway 9R for Category A, B, and C.
												% RVR 20 authorized Runway 9R for Category D.
												TDZ elevations:
												Runway 9L—1024'.
												Runway 27R—990'.
												Runway 9R—1016'.
												Runway 33—986'.
												Runway 15—1004'.
												Runway 27L—981'.

Missed approach:

- 9L and 3: Climb to 3000' to Tucker Int via ATL VORTAC, R 033°.
- 27R and 33: Climb to 3000' to Chattahoochee Int via Rex VORTAC, R 269°.
- 9R: Climbing right turn to 3000' direct to ATL VORTAC.
- 27L: Climbing left turn to 3000' direct to ATL VORTAC.
- 15: Climb to 3000' direct to ATL VORTAC.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9L	1480	RVR 40	456	1480	RVR 40	456	1480	RVR 40	456	1480	RVR 50	456
S-9R	1480	RVR 24	464	1480	RVR 24	464	1480	RVR 24	464	1480	RVR 40	464
S-33	1340	RVR 24	354	1340	RVR 24	354	1340	RVR 24	354	1340	RVR 40	354
S-27L	1420	RVR 40	439	1420	RVR 40	439	1420	RVR 40	439	1420	RVR 50	439
S-27R	1420	3/4	424	1420	3/4	424	1420	3/4	424	1420	1	424
S-3	1300	1	292	1300	1	292	1300	1	292	1300	1	292
S-15	1520	1	516	1520	1	516	1520	1	516	1520	1 1/2	516
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1520	1	496	1520	1	496	1520	1 1/2	496	1580	2	566
A	Standard.			T 2-eng. or less—Standard. %			T over 2-eng.—Standard. %					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Facility, Atlanta Radar; Procedure No. Radar 1, Amdt. 12; Eff. date, 8 Aug. 68; Sup. Amdt. No. 11; Dated, 27 Aug. 66

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 July 2, 1968.

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

[F.R. Doc. 68-8221; Filed, July 18, 1968; 8:45 a.m.]

SUBCHAPTER G—AIR CARRIER AND COMMERCIAL OPERATOR CERTIFICATION AND OPERATIONS

[Docket No. 7654; Amdts. 121-42, 127-8]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

Aircraft Proving Tests

The purpose of these amendments is to eliminate the requirement that aircraft proving tests be conducted by Part 121 and 127 certificate holders over "authorized routes," and to except aircraft proving tests from the deviation authority contained in § 127.17(b).

A notice of proposed rule making was published in the FEDERAL REGISTER on October 25, 1967 (32 F.R. 14777), containing proposed amendments to Parts 121 and 127. The notice was issued in response to the petition of the Airline Transport Association of America (ATA) for amendment of § 121.163 by deleting the requirement for conduct of proving tests over "authorized routes" and by deleting the further requirement that such tests be conducted under the supervision of the Administrator. While the ATA petition related only to § 121.163, the FAA felt that the proving test requirements for helicopters under Part 127 involved the same considerations and should be identical with the requirements for airplanes. For that reason, amendments to §§ 127.17(b) and 127.73 were also proposed in the notice.

Interested persons were afforded an opportunity to participate in the rule making through submission of written

comments. Due consideration has been given to all relevant matter presented.

The Air Transport Association of America and the Airline Pilots Association commented on the notice of proposed rule making. The ATA, while commenting favorably on the elimination of the requirement that proving tests be conducted over authorized routes, restated its objection to the requirement that the tests be conducted under the supervision of the Administrator. It further objected to the possibility that the phrase "representative number of flights into en route airports, as approved by the Administrator," might be subject to differences in understanding, and result in the certificate holder being required to fly a greater number of hours than presently required, over greater distances, and over routes where operations are not initially planned.

On behalf of helicopter operators, the ATA suggested that since helicopter

operations by a certificate holder are typically conducted over short route segments and at a limited number of stations, accomplishment of proving tests for helicopters should be based on a limited number of entries into a station rather than on time, and that the deviation authority provided for in § 127.17(b) should therefore remain unchanged.

The Airline Pilots Association (ALPA) supported the proposed amendments insofar as they provide for elimination of the requirement for conducting proving tests over authorized routes and require that flights into a representative number of en route airports be made with helicopters as well as airplanes. It comments, however, that proving tests ought to be conducted under the most realistic of operational conditions during which day-to-day problems such as servicing, ground operation, approach and departure, runway lengths, takeoff and landing weights, etc., as they relate to new equipment, can be evaluated. The ALPA further objected to the suggestion contained in the notice that flight training, publicity and advertising activities, and delivery flights might be combined with proving test activities and unduly interfere with the primary purpose of proving the aircraft.

With respect to the objection by the ATA that the requirement for conducting proving tests under the "supervision" of the Administrator was retained in the notice, it is the FAA's belief that evaluation of the combined performance and functioning of the aircraft, airmen, and the certificate holder in day-to-day operational situations prior to entering into regular service is essential to flight safety. This is the Administrator's single opportunity to make the necessary preliminary determination that the certificate holder can operate the new equipment with the high standard of safety required by the Federal Aviation Act. However, on reconsideration, the word "observation" has been substituted for the word "supervision" in all places where it appeared in the rule, since the FAA's function and purpose in this instance is not to supervise or direct, but rather to observe and evaluate. In this sense, it is essential that a representative of the Administrator be in the aircraft to make the observation and evaluation.

With respect to the objection that the requirement for "a representative number of flights into en route airports as determined by the Administrator" may result in difficulties resulting from differences in interpretation, it should be noted that this provision will allow for some flexibility in planning and conducting the aircraft proving program, depending upon circumstances which may be peculiar to individual test programs, and that Regional personnel will be guided in the exercise of this discretion by FAA policy materials furnished to them. It is anticipated that this element of flexibility will result in more efficient and effective aircraft proving tests.

As previously indicated, the ATA expressed the view that proving tests for helicopters should be based on entries

into a limited number of heliports rather than on the accumulation of a specified amount of flight time, by reason of their operation over typically short route segments, and that the provision for deviations now contained in § 127.17(b) should be retained to allow for this difference. The ALPA, on the other hand, commented that helicopters should make proving flights into all authorized en route airports. We do not completely agree with the views expressed by either the ATA or the ALPA. In the opinion of the FAA, an adequate measure of flexibility in the conduct of proving tests is afforded by allowing for the representative selection of airports. In addition, retention of the uniform time requirement for helicopters and airplanes is a judgment made in the interest of safety and based on experience gained in helicopter operations. Furthermore, the recognized differences between helicopter and airplane operations are not considered so significant as to allow for abbreviation of the minimum hours of proving tests required for helicopters.

The ALPA expressed concern that training flights, publicity activities, and delivery flights conducted in conjunction with proving flights might unduly interfere with the tests. In this regard, it should be pointed out that, while the rule does not prohibit such activities, to the extent that these activities were more than ancillary to the proving test, or actually interfered with the primary purpose of proving that the aircraft can be operated safely under operational conditions and situations, the flight could not be considered as a proving test.

In consideration of the foregoing, Parts 121 and 127 of the Federal Aviation Regulations are amended effective August 18, 1968, as follows:

1. By amending paragraphs (a) and (b) of § 121.163 to read as follows:

§ 121.163 Aircraft proving tests.

(a) No domestic or flag air carrier may operate an aircraft not before proven for use in scheduled air carrier operations and no supplemental air carrier or commercial operator may operate an aircraft not before proven for use in air carrier or commercial operator operations unless an aircraft of that type has had, in addition to the aircraft certification tests, at least 100 hours of proving tests under the Administrator's observation, including a representative number of flights into en route airports, as determined by the Administrator. At least 10 hours of the proving tests must be flown at night.

(b) A certificate holder may not operate an aircraft of a type that has been proven for use in its class of operation if it has not previously proved that type, or if that aircraft has been materially altered in design, unless—

(1) The aircraft has been tested for at least 50 hours under the Administrator's observation, including a representative number of flights into en route airports as determined by the Administrator; or

(2) The Administrator specifically authorizes deviations when special cir-

cumstances make full compliance with this paragraph unnecessary in a particular case.

§ 127.17 [Amended]

2. By amending § 127.17(b) by inserting the parenthetical phrase "(except § 127.73)" after the word "part" and before the phrase "for a particular operation".

3. By amending § 127.73 to read as follows:

§ 127.73 Proving tests.

(a) No air carrier may operate a helicopter not before proven for use in air carrier operations, unless a helicopter of that type has had, in addition to the helicopter certification tests, at least 100 hours of proving tests under the Administrator's observation, including a representative number of flights into en route heliports as determined by the Administrator. At least 10 hours of the proving tests must be flown at night, if night operations are authorized.

(b) An air carrier may not operate a helicopter of a type that has been proven in commercial or extensive military service, if it has not previously used that type, or if that helicopter has been materially altered in design, unless—

(1) The helicopter has been tested for at least 50 hours under the Administrator's observation, including a representative number of flights into en route heliports as determined by the Administrator; or

(2) The Administrator specifically authorizes deviations when special circumstances make full compliance in a particular case.

(c) No air carrier may carry passengers in a helicopter during proving tests, except for those needed to make the test and those designated by the Administrator. However, it may carry mail, express, or other cargo, when approved.

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on July 12, 1968.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 68-8573; Filed, July 18, 1968; 8:45 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Federal Reserve Banks; Specific Functions

1. Effective immediately, § 265.2(f) is amended by adding subparagraph (14) as follows:

§ 265.2 Specific functions delegated.

(f) Each Federal Reserve Bank is authorized, as to member banks or other indicated organizations headquartered in its district:

(14) Under the provisions of § 208.19(c) of this chapter (Regulation H), to extend the time within which a member bank that has given notice of intention to withdraw from membership must surrender its Federal Reserve Bank stock and its certificate of membership.

2a. This amendment is promulgated pursuant to and in accordance with the provisions of section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)). It is designed to provide a more expeditious means for performance of the Board's functions relating to withdrawals from membership in the Federal Reserve System.

b. The provisions of section 553 of title 5, United States Code, relating to notice and public participation and to deferred effective dates, were not followed in connection with the adoption of this amendment, because such amendment is procedural in nature and accordingly does not constitute substantive rules subject to the requirements of such section.

Dated at Washington, D.C., the 2d day of July 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-8579; Filed, July 18, 1968; 8:46 a.m.]

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 21,944]

PART 523—MEMBERS OF BANKS

Liquidity

JULY 11, 1968.

Resolved that the Federal Home Loan Bank Board considers it desirable to amend § 523.12 of the regulations for the Federal Home Loan Bank System (12 CFR 523.12) for the purpose of reducing from 7 percent to 6½ percent the required amount of cash and obligations of the United States that institutions which are members of the Federal Home Loan Bank System must have on hand in order to be entitled to make certain loans and, for such purpose, said § 523.12 is hereby amended to read as follows, effective August 1, 1968:

§ 523.12 Holdings of cash and obligations of the United States by members.

No member insurance company shall make or purchase any loan, other than loans on the company's insurance policies, at any time when the aggregate of its cash and obligations of the United States is not at least equal to 6½ percent of its policy reserve required by State law, and no other member shall make

or purchase any loan, other than advances on the sole security of its withdrawable accounts, at any time when its cash and obligations of the United States are not at least equal to 6½ percent of the obligation of the member on withdrawable accounts. For the purposes of this section:

(a) A loan shall be deemed to have been made as of the date of the note or bond evidencing the same, and a loan shall be deemed to have been purchased as of the date of payment therefor;

(b) The term "cash" means cash on hand, unpledged deposits in a Federal Home Loan Bank or State bank performing similar reserve functions, and unpledged demand deposits in domestic banks, not under the control or in the possession of appropriate supervisory authority.

(c) The term "obligations of the United States" shall mean all unpledged evidences of indebtedness issued by the United States and all unpledged evidences of indebtedness issued by any agency or instrumentality of the United States which are by statute fully guaranteed as to principal and interest by the United States.

(Sec. 5A, 64 Stat. 256, as amended; 12 U.S.C. 1425a. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since the Board determines it desirable in the present economic climate for institutions which are members of the Federal Home Loan Bank System to have available as soon as possible the latitude in the holdings of cash and obligations of the United States which is made available by this amendment, the Federal Home Loan Bank Board finds that notice and public procedure on the amendment is contrary to the public interest and, since the amendment relieves restrictions, the Board finds that publication in the FEDERAL REGISTER for not less than 30 days prior to the effective date is unnecessary, and the Board determines that the amendment shall be effective as hereinafter set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[F.R. Doc. 68-8600; Filed, July 18, 1968; 8:48 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[11th Gen. Rev. of Export Reg., Amdt. 5]

PART 384—GENERAL ORDERS

Validated Licenses and Certain General Licenses to Southern Rhodesia

Part 384 of the Code of Federal Regulations is amended as set forth below:

(Secs. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-63 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-63 Comp.)

Effective date: July 16, 1968.

RAUER H. MEYER,
Director, Office of Export Control.

Subject. Order revoking validated licenses and certain general licenses to Southern Rhodesia.

Purpose and effect. On May 29, 1968, the Security Council of the United Nations unanimously adopted Resolution No. 253. This Resolution calls upon member nations to take certain actions with respect to transactions involving Southern Rhodesia. As one aspect of United States implementation of the United Nations Resolution, the U.S. Department of Commerce is issuing, under the authority of the Export Control Act, the general order set forth below relating to exports to Southern Rhodesia.

Accordingly, the United States Export Regulations are amended as follows:

A new section designated § 384.6 is hereby added to read as follows:

§ 384.6 General order revoking validated licenses and certain general licenses to Southern Rhodesia.

(a) *Revocation of validated licenses.* Effective 12:01 a.m., e.d.t., July 16, 1968, all outstanding validated export licenses authorizing exports of any commodities or technical data to Southern Rhodesia are revoked.

(b) *Revocation of certain general licenses.* Effective 12:01 a.m., e.d.t., July 16, 1968, General Licenses GIT, GLV, GTF, GLR, GATS, GLC, GMS, and GTDU authorizing the export of any commodity or technical data are revoked for exports to Country Group S (Southern Rhodesia).

(c) *Revision of general licenses Baggage and Tools of Trade.* Effective 12:01 a.m., e.d.t., July 16, 1968, the provisions of General Licenses Baggage and Tools of Trade are revised to permit only the commodities identified by the symbol "B" in the last column of the Commodity Control List to be taken out of the United States to Southern Rhodesia under these general licenses.

(d) *Revision of general license G-DEST.* Effective 12:01 a.m., e.d.t., July 16, 1968, the provisions of General License G-DEST are revised to permit only the following commodities to be exported to Country Group S (Southern Rhodesia):

Export control commodity number and commodity description

- | | |
|-------|--|
| 863 | Motion picture film, silent or sound, exposed and developed, containing exclusively news and documentary material. |
| 89213 | Maps, hydrographic charts, atlases, gazetteers, globe covers, and globes (terrestrial or celestial). |
| 89214 | Printed books, pamphlets, and miscellaneous publications, including bound newspapers and periodicals. |
| 89220 | Newspapers and periodicals, unbound, excluding waste. |
| 89230 | Music books and sheet music. |
| 89294 | Calendars, including calendar blocks, of paper. |

89298 Advertising printed matter exclusively related to developed motion picture film, books, miscellaneous publications, newspapers and periodicals for which a validated license is not required for Southern Rhodesia.

(e) *Saving clause.* This Saving Clause applies to shipments of any commodities or technical data previously authorized for export to Southern Rhodesia by a revoked validated license described in paragraph (a) of this section and any commodities or technical data removed from general license to Country Group S (Southern Rhodesia) as a result of changes set forth in paragraphs (b), (c), or (d) of this section. Such shipments which were on dock, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a.m., e.d.t., July 16, 1968, may be exported under the previous validated license, or under the previous general license provisions, up to and including 12:01 a.m., e.d.t., August 6, 1968. Any such shipment not laden aboard the exporting carrier before 12:01 a.m., e.d.t., August 6, 1968, requires a validated license for export.

(f) *Licensing policy.* In considering applications for validated licenses to export to Southern Rhodesia, the Office of Export Control will generally deny such licenses unless an application involves commodities and technical data intended strictly for medical purposes, for use in schools and other educational institutions, or for the essential needs of recognized charitable institutions; and foodstuffs required in special humanitarian circumstances.

[F.R. Doc. 68-8587; Filed, July 18, 1968; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 245—GUIDES FOR THE WATCH INDUSTRY

Statement by the Commission. Guides for the Watch Industry as hereinafter set forth were adopted by the Commission on its own initiative to afford guidance as to the legal requirements applicable to the practices of this industry in the interest of protecting the public and effecting more widespread and equitable observance of laws administered by the Commission. The Guides, when operative, supersede the Trade Practice Rules Respecting the Terms "Waterproof," "Shockproof," "Nonmagnetic," and Related Designations, as Applied to Watches, Watchcases, and Watch Movements, promulgated April 24, 1947, and the Trade Practice Rules for the Watch Case Industry, promulgated January 30, 1948.

In proceedings instituted to consider revision of the mentioned trade practice rules, proposed rules respecting disclosure of metallic composition and misrepresentation of protective features were released for consideration by all parties having an interest therein with invitation to submit written data, views, suggested changes or other pertinent information. Thereafter a public hearing was held on the proposed rules. All matters presented in the proceeding, whether oral or written, were fully considered by the Commission prior to its adoption of the Guides.

While the Guides are interpretive of laws administered by the Commission and thus are advisory in nature, proceedings to enforce the requirements of law as explained in the Guides may be brought under the Federal Trade Commission Act (15 U.S.C. secs. 41-58). Briefly stated, the Act makes it illegal for one to engage in "unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce."

Provisions of the Guides which pertain to the use of certain terminology to describe industry products or processes should not be construed as approval of claims made for any product or process or as an expression or implication of the Commission's opinion respecting the comparative merits of industry products or the methods of their manufacture. These provisions of the Guides are intended to insure that the prospective purchaser is not misled by the appearance of a product, or by descriptions, designations, or representations concerning it in advertising, labeling, marking, or in other promotional materials into thinking that he is obtaining a product which is different from that which is actually offered.

Those provisions of the Guides in §§ 245.3, 245.5, 245.6, 245.7, and 245.10 which pertain to the labeling and marking of industry products become operative 180 days after the date of promulgation. All other provisions of the Guides become operative 30 days after the date of promulgation.

Inquiries and requests for copies of the Guides should be directed to the Bureau of Industry Guidance, Federal Trade Commission, Washington, D.C. 20580.

Sec.	Definitions.
245.1	Misrepresentation in general.
245.2	Misrepresentation of metallic composition of watchcases and certain watch bands.
245.3	Misrepresentation as to durability or suitability.
245.4	Misrepresentation of protective features.
245.5	Deception as to jewels.
245.6	Misrepresentation of accessories.
245.7	Deceptive selling of used, rebuilt, or secondhand products.
245.8	Deceptive imitation, obliteration, or concealment of trade names, trademarks, and marks.
245.9	Disclosure of foreign origin of watch movements.
245.10	Deceptive pricing.
245.11	Commercial bribery.
245.12	Coercing purchase of one product as a prerequisite to the purchase of other products.
245.13	

Sec.

245.14 Misrepresentation of the character and size of business, extent of testing, etc.

245.15 Guarantees, warranties, etc.

245.16 Use of the word "free".

Appendix

AUTHORITY: The provisions of this Part 245 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 245.1 Definitions.

For the purpose of this part the following definitions shall apply:

(a) The term "watch" means a time-piece or time-keeping device for measuring or indicating time which is designed to be worn on or about the person.

(b) The term "watchcase" or "case" means any metal case, covering, or housing of any quality or description for a watch as defined above and shall include the back, center, lugs, bezel, pendant, crown, bow, cap, and other parts thereof, including a watch band which has been permanently affixed thereto; and unless otherwise stated, either term as used in this part applies to the case whether marketed separately or together with the movement or works.

(c) The term "accessories" means products, other than watch bands, which are affixed to and sold in combination with watchcases or watches, such as, for example, bracelets, pins, pendants, brooches, or ornaments. (NOTE: Metallic watch bands of the detachable type are subject to the provisions of the Trade Practice Rules for the Metallic Watch Band Industry, promulgated June 30, 1962, and amended June 16, 1964.)

(d) The term "mark" means any letter, figure, numeral, symbol, sign, word, or term, or any combination thereof, which has been stamped, embossed, inscribed, or otherwise placed, on any industry product for the purpose of disclosing its metallic composition or any other material information.

(e) The term "plate" or "plated" means that a sheet or shell of metal has been applied by soldering, brazing, welding, or other mechanical means to the outer surfaces of foundation metal stock.

(f) The term "electroplate" or "electroplated" means that a coating of metal has been applied by the electrolytic method to the outer surfaces of foundation metal stock.

(g) The term "industry product" means a watch, watchcase, accessory or a part thereof.

(h) The term "industry member" means a person, firm, corporation, or organization engaged in the importation, manufacture, sale, or distribution of any industry product. [Guide 1]

§ 245.2 Misrepresentation in general.

Industry members should not use, or cause or promote the use of any promotional materials, advertising, labels, tags, marks, insignia, brand or trade names, depictions or packaging which bear, contain, or constitute representations which have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers:

(a) With respect to the grade, quality, estimated life, appearance, substance, size, construction, novelty, composition, accuracy, dependability, imperviousness, repairability, conformance to standards, or methods of manufacture, of industry products; or

(b) With respect to the country of origin of industry products or parts thereof; or

(c) In any other material respect. [Guide 2]

§ 245.3 Misrepresentation of metallic composition of watchcases and certain watch bands.

Industry members should not directly or indirectly, in advertising, marking, labeling, in a brand or trade name, or otherwise, misrepresent the metallic composition of a watchcase. With respect to cases having an exposed surface or surfaces which are, or have the appearance of being, metal, the metallic composition of the cases should be clearly and conspicuously disclosed in accordance with the methods and terminology set forth below:

(a) *Exclusions.* In determining the metallic composition of watchcases, parts which are necessarily required to be of steel or some other base metal may be excluded, namely, the springs, hinge pins for jointed cases, spring pins for straps or bands, separate inside movement holding rings, and crown cores.

(b) *Gold.* Watchcases which are not composed entirely of fine (24 karat)¹ gold should not be marked with the unqualified word "gold" or an abbreviation thereof.

(c) *Gold alloy.* Watchcases composed entirely of an alloy of gold of not less than 10 karat fineness¹ should be marked as "gold" or by an abbreviation thereof, and such word or abbreviation should be immediately preceded by a correct designation of the karat fineness¹ of the alloy, for example, "10 Karat Gold," "14 Kt Gold," "10 Kt."

(d) *Gold filled.* Watchcases which have been plated by mechanical means with gold, or with an alloy of gold of not less than 10 karat fineness¹, and the plating is of a thickness throughout of not less than three one-thousandths² of an inch after completion of all finishing operations, should be marked "Gold Filled", or by an abbreviation thereof, and such term or abbreviation should be immediately preceded by a correct designation of the karat fineness¹ of the gold alloy of which the plating is composed, as, for example, "12 Karat Gold Filled", "12 K.G.F."

(e) *Rolled gold plate.* Watchcases which have been plated by mechanical means with gold, or with an alloy of gold of not less than 10 karat fineness¹, and the plating is of a thickness throughout of not less than one and one-half one thousandths² of an inch upon completion of all finishing operations,

should be marked "gold plate" or "rolled gold plate" or by an abbreviation thereof and such term or abbreviation should be immediately preceded by a correct designation of the karat fineness¹ of the gold alloy of which the plating is composed, as, for example, "10 Karat Gold Plate," "10 Karat Rolled Gold Plate," "10 K.R.G.P."

(f) *Gold electroplate.* (1) Watchcases which have been electroplated with gold or with an alloy of gold of not less than 10 karat fineness¹, to a thickness throughout of not less than three-fourths one thousandths² of an inch upon completion of all finishing operations and which can successfully withstand the tests set forth in paragraph 2 of the appendix, should be marked "gold electroplate" or "gold electroplated" and such term may be immediately preceded by a correct designation of the karat fineness¹ of the gold alloy of which such coating is composed, e.g., "16 Karat Gold Electroplate." If the thickness of such gold electroplate is one and one-half one thousandths² of an inch or greater, it may be described as "Heavy Gold Electroplate," and such term may be immediately preceded by a correct designation of the karat fineness¹ of the gold alloy of which such plating is composed. Gold electroplated products which satisfy the provisions in this paragraph may also be marked with an accurate disclosure of the actual thickness of the electroplate, e.g., "1/1000" gold electroplate."

(2) Watches which have cases marked "gold electroplate" or "gold electroplated" in conformity with this section should, when sold to the ultimate consumer within the 18-month period immediately following the operative date of this section, be accompanied by an appropriate statement explaining the meaning of the marking and providing sufficient information to enable the consumer to make an informed judgment regarding the quality of the coating. The statement should not purport to compare the merits of electroplated coatings with the merits of coatings applied by other processes. The statement should be made on any point of sale material describing or referring to the watch and on a label or tag firmly affixed to the watch.

(g) *Silver.* Watchcases which are composed entirely of pure silver or of an alloy of silver of not less than nine-hundred twenty-five one thousandths fineness¹ should be marked as "silver," "sterling" or "sterling silver" or by an abbreviation thereof. Cases which are composed entirely of a silver alloy of at least nine-hundred one thousandths fineness¹ should be marked "coin silver."

(h) *Silver plate.* Watchcases which have been plated or electroplated with silver, should be marked as "silver plate" or "silver plated", if after the completion of all finishing operations, such plating is of sufficient thickness to withstand normal use and last throughout the estimated life of the watch.

(i) *Other precious metals.* Watchcases which are composed in whole or in part of a precious metal other than gold or

silver, or of an alloy of such a metal, or which have been plated or electroplated with such a metal or alloy thereof, should be marked so as to disclose the kind of precious metal or alloy so used and the manner of its use.

(j) *Base metals.* Watchcases or parts thereof which do not meet the minimum requirements set forth in paragraphs (b) through (i) of this section should be marked as "Base Metal" or so as to identify clearly the kind or kinds of metal of which they are composed, e.g., "Aluminum," "Stainless Steel," "Chromium Plated Steel," and under these circumstances the mark should not contain the names of or abbreviations for any precious metal.

(k) *Combination of metals.* Watchcases which are composed of parts having different metallic compositions, should be marked in the manner prescribed in paragraphs (b) through (j) of this section with an accompanying explanation of the part or parts to which such markings or descriptions apply, e.g., "Base Metal Back," "14 K Gold Filled Bezel."

(l) *Substantiality.* A watchcase should not be composed of metals or alloys, or have coatings of either base metal or precious metals, which are not of sufficient thickness and substantiality as to render lasting and effective service, with due regard to the estimated life of the watch of which it is a part, unless the fact that such case will not render such service is clearly and conspicuously disclosed on a tag, label, or in other printed material which accompanies the watch when it is sold to the ultimate consumer.

(m) *Placement of markings and abbreviations.* All markings on watchcases as provided in this part should be of a permanent type and made on the exterior, exposed surface of the back, and be so placed and of such a size that they will be readily apparent to purchasers of the product. Provided that markings, respecting the metallic composition of watch bands which are part of the cases, may be placed on the bands or on the cases. All markings should be stated in the English language and printed in letters or figures of the same size and conspicuousness as that used for words or abbreviations descriptive of any precious metal content, i.e., "gold," "silver," or "karat". When using abbreviations in markings as provided by this section, "G" may be used for the word "Gold," "K" or "Kt" for the word "Karat," and "Chr" for the word "Chromium". In addition "G.F." may be used for "Gold Filled," and "R.G.P." for "Rolled Gold Plate." The terms "electroplate" and "electroplated" should not be abbreviated. The word "filled" and the word "plate" should not be abbreviated in marks containing the word "gold" unless the word "gold" is abbreviated by use of the letter "G".

(n) *Misuse of terms.* The words "gold," "karat," "silver," "sterling," "coin," or any abbreviation thereof either alone or in conjunction with other words such as "solid," "plate," "plated," "filled," "electroplate," or "electroplated" or any abbreviation thereof should not be used as

¹ Subject to the tolerances applicable thereto under the National Stamping Act (15 U.S.C., section 294, et seq.).

² Subject to permissible tolerances set forth in paragraph 1 of the appendix.

a marking or as descriptive of a watch-case or part thereof in labeling, advertising, trade names or otherwise in a manner inconsistent with the provisions of this section.

(c) *Disclosures in advertising.* All disclosures which are placed on industry products in conformity with this section should also appear in all advertising or other promotional material pertaining to such products, irrespective of the media used, whenever statements, representations, or depictions are made or appear therein, which in the absence of such disclosures serve to create a false impression that the products or parts thereof, are of a certain metallic composition. The disclosure so made should be of such conspicuousness and clarity as to be noted by purchasers and prospective purchasers casually reading, or listening to, such advertising, and the words and terms therein which are descriptive of metallic composition should not be used except as provided in this section. [Guide 3]

§ 245.4 Misrepresentation as to durability or suitability.

Industry members should not misrepresent directly or indirectly, in advertising, labeling, marking, brand or trade name, depictions, or otherwise the characteristics of a product or the ability of a product to resist or withstand damage from stated causes, or of its suitability for particular uses. Illustratively, industry members should not, under this section: Falsely designate or describe a watch as a chronometer or use such terms as "skin divers," "navigators," or "railroad" as descriptive of industry products which do not possess the characteristics, e.g., ruggedness, accuracy, dependability, or other features, required of watches used by persons engaged in those activities. [Guide 4]

§ 245.5 Misrepresentation of protective features.

(a) Industry members should not misrepresent directly or indirectly, in advertising, other promotional material, labeling, brand or trade name, or marking, or otherwise, the ability of a product to withstand or resist damage or other harmful effects from stated causes. Illustratively, under this section a product should not be described or designated as "shockproof," "waterproof," "nonmagnetic," or "all proof," even if such term or terms are qualified by words or phrases, e.g., "waterproof when case, crown, and crystal are intact." In addition a product should not be described or designated as "shock resistant," "water resistant," or "antimagnetic" unless it conforms to the applicable provisions set forth below:

(1) *Shock resistant.* A product may be properly described or designated as "shock resistant" or "shock absorbing" if it possesses a level of resistance to damage from shock sufficient to insure that it will successfully withstand the test described in paragraph 3 of the appendix.

(2) *Water resistant.* An industry product may be properly described or designated as "water resistant" if it is suf-

ficiently impervious to water or moisture so as to insure that at the time of its sale to the ultimate consumer it will successfully withstand the test described in paragraph 4 of the appendix.

(3) *Antimagnetic.* A product may properly be described or designated as "antimagnetic" if it is so designed and constructed as to provide a substantial degree of protection against magnetism, and the product will successfully withstand the test described in paragraph 5 of the appendix.

(b) Whenever a product described or designated as "shock resistant," "water resistant," or "antimagnetic" in conformity with this section is sold to the ultimate consumer, the designation should be accompanied by an appropriate statement explaining the meaning of the term and the care and maintenance ordinarily required to preserve the described qualities. The statement should be made on any point of sale material describing or referring to the watch having the designation in question and on a label or tag firmly affixed to the watch bearing the designation. [Guide 5]

§ 245.6 Deception as to jewels.

Industry members should not misrepresent directly or indirectly, in advertising, labeling, marking, brand or trade name, or otherwise, the number of jewels contained in a watch, or that a watch is "jeweled" or that a watch contains a jeweled movement. Illustratively, industry members should not:

(a) Represent or describe a watch as "jeweled" or as containing a jeweled movement unless the watch movement contains at least seven jewels each of which serves the purpose of protecting against wear from friction by providing a mechanical contact with a moving part at a point of wear;

(b) Refer to the number of jewels contained in a watch unless each and every one of these jewels serves the purpose of protecting against wear from friction by providing a mechanical contact with a moving part at a point of wear. [Guide 6]

§ 245.7 Misrepresentation of accessories.

Industry members should not misrepresent directly or indirectly, in advertising, labeling, marking, brand or trade name, or otherwise, the composition, quality, or any other material fact respecting accessories. Illustratively, industry members should not, under this section: use terms, representations of metallic composition, words or names associated with precious, semiprecious, synthetic, and imitation stones, and quality marks in a manner inconsistent with the provisions of the Commission's Trade Practice Rules for the Jewelry Industry, promulgated June 28, 1957, and amended November 17, 1959. [Guide 7]

§ 245.8 Deceptive selling of used, rebuilt, or secondhand products.

An industry product which in whole or in part is used, secondhand, rebuilt, repaired, refinished, or which contains parts that are used, secondhand, rebuilt, repaired or refinished, should not be

sold, offered for sale or distributed unless the fact that such product or parts are not new, or are used, secondhand, rebuilt, or repaired, or refinished, is fully and nondeceptively disclosed in all advertising of the product, on the product itself or on a label firmly affixed thereto, and on the immediate container in which the product is sold to the ultimate consumer. [Guide 8]

§ 245.9 Deceptive imitation, obliteration, or concealment of trade names, trademarks, and marks.

Industry members should not imitate or simulate the trade names or trademarks of competitors, or obliterate, conceal, or remove tags, labels, marks, or other disclosures placed on an industry product or on the package in which it is sold to the ultimate consumer under circumstances having the capacity and tendency of deceiving the ultimate consumer as to the identity of the manufacturer, origin of the product, or in any other material respect. [Guide 9]

§ 245.10 Disclosure of foreign origin of watch movements.

Watches having movements of foreign origin should not be offered for sale or sold unless a clear and conspicuous disclosure of the country of origin is made. This disclosure should be permanently marked on an exposed surface of the watch or on a label or tag affixed thereto which has such a degree of permanency as to remain thereon until consummation of the consumer sale of the watch and be of such size and conspicuousness that it will be readily apparent to purchasers or prospective purchasers making a casual inspection of the watch. The country of origin of a watch movement is that country or countries in which its substantial and significant parts are manufactured and assembled. If substantial and significant parts are manufactured and assembled in more than one foreign country, the country of origin of each such component should be disclosed. [Guide 10]

§ 245.11 Deceptive pricing.

Members of the industry should not represent directly or indirectly in advertising or otherwise that an industry product may be purchased for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise deceive purchasers or prospective purchasers with respect to the price of any product offered for sale; or furnish any means or instrumentality by which others engaged in the sale of industry products may make any such representation.

NOTE: The Commission's January 8, 1964, Guides Against Deceptive Pricing furnish additional guidance respecting price savings representations and are to be considered as supplementing this section. Copies are available upon request.

[Guide 11]

§ 245.12 Commercial bribery.

Members of the industry should not give, offer to give, or permit or cause to be given, directly or indirectly, money

or anything of value to employees or agents of customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence or cause their employers or principals to purchase or contract to purchase the products of such industry members, or to refrain from purchasing products from competitors of such members. [Guide 12]

§ 245.13 Coercing purchase of one product as a prerequisite to the purchase of other products.

Members of the industry should not coerce a customer or prospective customer to purchase one or more products as a prerequisite to the purchase of one or more other products, where the effect may be substantially to lessen competition, or tend to create a monopoly or to unreasonably restrain trade. [Guide 13]

§ 245.14 Misrepresentation of the character and size of business, extent of testing, etc.

Industry members should not falsely represent, directly or indirectly, in company, brand, or trade name, or in advertising, labeling or otherwise:

- (a) The length of time they have been in business;
- (b) The extent of their sales;
- (c) Their rank in the industry as producers or distributors of a product or type of product;
- (d) That they are manufacturers of industry products or own or control a factory engaged in the manufacture of such products;
- (e) That they own or operate a laboratory, or that their products have been tested in any particular manner or for any period of time, or with any particular results;
- (f) That a product or manufacturing process is new or exclusive; or
- (g) Any other material aspect of their business or products. [Guide 14]

§ 245.15 Guarantees, warranties, etc.

(a) Industry members should not represent in advertising or otherwise that a product is "guaranteed" without clear and conspicuous disclosure in close conjunction with such representation of:

- (1) The nature and extent of the guarantee, and
- (2) Any material conditions or limitations in the guarantee which are imposed by the guarantor, and
- (3) The manner in which the guarantor will perform thereunder, and
- (4) The identity of the guarantor.

(b) A seller or manufacturer should not advertise or represent that a product is guaranteed when he cannot or does not promptly and scrupulously fulfill his obligations under the guarantee.

(c) A specific example of nonperformance of an obligation under the guarantee would arise in connection with the use of the phrase, "Satisfaction or your money back" if the guarantor does not promptly make a full refund of the purchase price upon request, irrespective of the reason for such request.

(d) Guarantees should not be used which under normal conditions are im-

practical of fulfillment or which are for such a period of time or are otherwise of such nature as to have the capacity and tendency of misleading purchasers or prospective purchasers into the belief that the product so guaranteed has a greater degree of serviceability, durability or performance capability in actual use than is true in fact.

(e) This section has application not only to "guarantees" but also to "warranties", to purported "guarantees" and "warranties", and to any promise or representation in the nature of a "guarantee" or "warranty."

NOTE: The Commission's April 26, 1960, Guides Against Deceptive Advertising of Guarantees furnish additional guidance respecting guarantee representations and are to be considered as supplementing this section. Copies are available upon request. [Guide 15]

§ 245.16 Use of the word "free".

In connection with the sale, offering for sale, or distribution of industry products, industry members should not use the word "free" or any other word or words of similar import, in advertisements or in other offers to the public, as descriptive of an article of merchandise, or service, which is not an unconditional gift, under the following circumstances:

(a) When all the conditions, obligations, or other prerequisites to the receipt and retention of the "free" article of merchandise or service offered are not clearly and conspicuously set forth at the outset so as to leave no reasonable probability that the terms of the offer will be misunderstood; and regardless of such disclosure:

(b) When, with respect to any article of merchandise required to be purchased in order to obtain the "free" article or service, the offerer (1) increases the ordinary and usual price of such article of merchandise, or (2) reduces its quality, or (3) reduces the quantity or size thereof.

NOTE: The disclosure provided by paragraph (a) of this section should appear in close conjunction with the word "free" (or other word or words of similar import) wherever such word first appears in each advertisement or offer. A disclosure in the form of a footnote, to which reference is made by use of an asterisk or other symbol placed next to the word "free", will not be regarded as compliance. [Guide 16]

APPENDIX

Set forth in this appendix are the thickness tolerances, and tests referred to in the foregoing Guides in this part.

1. *Thickness tolerances: plated and electroplated cases.* The minimum thicknesses specified in paragraphs (d), (e), and (f) of § 245.3 for the coatings of gold or gold alloy on watchcases shall mean that the coating of precious metal affixed to the surface of the metal stock shall be throughout the surface and at the thinnest point not less than the thickness specified after the completion of all finishing operations, including polishing, except, however, for such deviations therefrom, not exceeding 20 percent (minus) of the stated thickness, as may be proved by the manufacturer to have resulted from unavoidable variations in manufacturing processes and despite the exercise of due care, which deviation so proved shall be allowed

if and when the quantity of precious metal remaining plated on the outside of the case is sufficient to equal the quantity necessary to provide the specified minimum thickness at all points on such watchcase including the thinnest point.

2. *Gold electroplate: standards and tests.* The gold electroplated surface coating of a watchcase should be free of cracks, blisters, pits or other flaws, and capable of successfully undergoing the following tests:

a. *Adhesion.* The watchcase should be heated to a temperature of not less than 360° nor more than 400° C. and maintained at that temperature for not less than 5 minutes. At the end of that time such surface coating should show no signs of blistering, flaking, peeling, or similar defects.

b. *Hardness.* Such surface coating should undergo a Knoop hardness test with a 25 gram load and achieve a rating of not less than 130.

c. *Porosity.* After such surface coating has been thoroughly cleaned and freed of any foreign material, the case should be:

(1) Immersed in a solution of one part concentrated nitric acid (sp.gr. 1.42) and one part water at room temperature for 5 minutes; and

(2) Exposed to fumes of concentrated nitric acid (sp.gr. 1.42) in a closed vessel for 3 hours at room temperature.

At the conclusion of each of the foregoing porosity tests, the surface coating should show no signs of having been attacked. Any discoloration or pitting should be considered as signs of an attack. The nitric acid solution in which the watchcase was immersed should be tested for the presence of metal by making it slightly alkaline with ammonium hydroxide and by adding a solution of ammonium or sodium sulfide. The formation of a black precipitate indicates that the coating has been attacked.

3. *Test for shock resistance.* A watch should be tested for shock resistance in a room having a temperature between 18° and 25° C. which does not vary by more than 2° during the test. A wrist watch which does not have a permanently affixed band should be tested without the band or strap.

The test should be conducted as follows:

a. One hour after the watch has been fully wound, its daily rate in each of the following three positions should be determined by observing it for 2 minutes in each position:

(1) Position HB (horizontal with the dial facing down);

(2) Position VC (vertical with 3 o'clock to the watch's left);

(3) Position VB (vertical with 3 o'clock pointed downwards).

b. Shocks equal to that which the watch would receive if it were dropped from a height of 3 feet onto a horizontal hardwood surface should be applied as follows:

(1) The first shock should be applied to the middle of the watch at a position directly opposite the crown and in a direction which is parallel to the plane of the watch;

(2) The second shock should be applied to the crystal, and in a direction which is perpendicular to the plane of the watch.

c. Five minutes after the last shock, the daily rate of the watch in each of the three positions described in a. above should be determined by observing it for 2 minutes in each position. The differences in daily rate before and after the shock should be determined for each position. The residual effect of the shocks will be equal to the greatest of these differences.

A watch will be considered to have passed the foregoing test, if after application of the shocks, it does not stop; the residual effect does not exceed 60 seconds per day; and an examination of the watch does not disclose any physical damage which would affect its operation or appearance, e.g., hands

bent or out of position, cracked crystal, or automatic or calendar devices inoperable or out of alignment.

4. *Test for water resistance.* A watch should be tested for water resistance by immersing it completely for at least 5 minutes in water under atmospheric pressure of 15 pounds per square inch and for at least another 5 minutes in water under an additional pressure of at least 35 pounds per square inch (total pressure of 50 pounds per square inch). If the watch does not admit any water or moisture it will be considered to have passed the test.

5. *Test for antimagnetic qualities.* A watch should be tested for its resistance to magnetism by placing it in a demagnetized condition in an electrical field of not less than 60 Gauss for at least 5 seconds in a vertical position and for at least 5 seconds in a horizontal position. If the daily rate of the watch has not been changed by more than 15 seconds as a result of the foregoing exposure, it shall be considered to have passed the test.

Promulgated by the Federal Trade Commission, July 19, 1968.

Adopted: May 14, 1968.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 68-8476; Filed, July 18, 1968;
8:45 a.m.]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

[Bureau of Mines Schedule 13E]

PART 11—SELF-CONTAINED BREATHING APPARATUS

Procedures for Investigation, Tests, Certification, Approval, and Fees

On pages 4468-4474 of the FEDERAL REGISTER of March 13, 1968, there was published a notice and text of a proposed revision of Part 11 of Chapter I, Title 30, Code of Federal Regulations, prescribing requirements for investigating, testing, and certifying and approving self-contained breathing apparatus. This was the second notice pertaining to these regulations and the text so published was an extensive revision of the text that was published with the first notice beginning on page 8162 of the FEDERAL REGISTER of June 7, 1967.

As with the publication of the first notice and text, interested persons were given 30 days after the date of publication of the second notice within which to submit written comments, suggestions, or objections concerning the proposed regulations that were published in the FEDERAL REGISTER of March 13, 1968. Comments and suggestions were received from several sources and those which were considered reasonable and valid have been included in §§ 11.4(c), 11.21(c)(4), and 11.31(d)(3) together with editorial changes not of a substantive nature.

Part 11 of Chapter I, Title 30, Code of Federal Regulations, is revised as follows and shall be effective upon publication in the FEDERAL REGISTER.

EARL T. HAYES,
Acting Director.

Subpart A—General Provisions

- Sec. 11.1 Purpose.
- 11.2 Definitions.
- 11.3 Consultation.
- 11.4 Types of apparatus.
- 11.5 Applications.
- 11.6 Fees.
- 11.7 Date for testing.
- 11.8 Conduct of investigations, tests, and demonstrations.
- 11.9 Certificate of approval.
- 11.10 Approval labels and markings.
- 11.11 Material required for record.
- 11.12 Changes after certification.
- 11.13 Withdrawal of certification.

Subpart B—Design, Construction, Requirements, and Bench Tests

- 11.20 Design and construction.
- 11.21 Requirements and tests.
- 11.22 Requirements for combination self-contained breathing apparatus and another type of respiratory protective device.

Subpart C—Man Tests

- 11.30 General description of tests.
- 11.31 Test procedures and requirements.
- 11.32 Gas tightness tests.

AUTHORITY: The provisions of this Part 11 issued under sec. 5, 36 Stat. 370, as amended, 30 U.S.C. 7. Interpret or apply secs. 2, 3, 36 Stat. 370, as amended, 30 U.S.C. 3, 5.

Subpart A—General Provisions

§ 11.1 Purpose.

The regulations in this part set forth the requirements for certification or approval of self-contained breathing apparatus.

§ 11.2 Definitions.

As used in this part:

(a) A "self-contained breathing apparatus" or "apparatus" is a completely assembled, portable, self-contained device designed to provide respiratory protection against irrespirable gases, vapors, aerosols, or combinations thereof, and against oxygen-deficient atmospheres.

(b) "Bureau" means the Bureau of Mines of the U.S. Department of the Interior.

(c) An "approved" apparatus is one conforming to the requirements of this part and having a certificate of approval to that effect.

(d) A "certificate of approval" is a formal document issued by the Bureau stating that the apparatus has met the requirements of this part. It authorizes the use and attachment of an official approval label or marking to indicate this.

(e) A "closed-circuit" apparatus is one in which the exhaled air is rebreathed by the wearer after the carbon dioxide has been effectively removed and the oxygen concentration restored.

(f) An "open-circuit" apparatus is one from which exhaled air is vented to the atmosphere and not rebreathed.

(g) A "demand-type" apparatus is an open-circuit apparatus in which the pressure inside the facepiece in relation to the immediate environment is positive during exhalation and negative during inhalation.

(h) A "pressure-demand type" apparatus is an open-circuit apparatus having positive pressure inside the facepiece in relation to the immediate environ-

ment during both exhalation and inhalation.

(i) A "self-rescue apparatus" is an open- or closed-circuit apparatus for use only during emergency escape from irrespirable atmospheres and shall not be used for entry into such an atmosphere.

(j) "Entry into and escape from" means that the apparatus approved for these purposes may be used to enter an irrespirable atmosphere and/or to escape from it.

(k) "Auxiliary equipment" is a self-contained breathing apparatus that is limited when used underground in mines, tunnels, and similar operations to situations in which the wearer has ready access to fresh air and at least one crew of five or six men equipped with approved self-contained breathing apparatus, preferably of 2 hours or longer rating, is in reserve at a fresh air base.

(l) A "combination apparatus" is a self-contained breathing apparatus which combines the functions and purpose of a self-contained breathing apparatus with those of another type of respiratory protective device described in another part.

(m) "Compressed breathing gas" is oxygen or air stored in the apparatus and supplied to the wearer in a gaseous form.

(n) "Liquefied breathing gas" is oxygen or air stored in the apparatus in liquid form and supplied to the wearer in a gaseous form.

(o) "Applicant" means an individual, partnership, company, corporation, association, or other organization that designs, manufactures, assembles, or controls the assembly of an apparatus and that seeks a certificate of approval thereof.

§ 11.3 Consultation.

By appointment, applicants or their representatives may visit the Bureau's Health and Safety Research and Testing Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213, to discuss with qualified Bureau personnel proposed self-contained breathing apparatus to be submitted in accordance with the regulations of this part. No charge is made for such consultation and no written report thereof will be made to the applicant.

§ 11.4 Types of apparatus.

(a) Types of apparatus covered by the requirements of this part are classified according to their use as follows:

(1) An apparatus for entry into or escape from oxygen-deficient atmospheres or irrespirable vapors, gases, or aerosols.

(2) Apparatus for escape only from oxygen-deficient atmospheres or from irrespirable vapors, gases, or aerosols.

(b) Apparatus covered by the requirements of this part are further classified according to their design as:

(1) Closed-circuit apparatus. (i) Compressed-oxygen;

(ii) Oxygen-generating;

(iii) Liquid-oxygen.

(2) Open-circuit apparatus (using compressed or liquefied breathing gas).

(i) Demand-type;

(ii) Pressure-demand type.
(3) *Combinations of closed-circuit and open-circuit apparatus.* An apparatus of this type shall meet the applicable requirements of both closed-circuit and open-circuit classifications.

(c) Apparatus covered by the requirements of this part are also classified according to the length of time they will provide respiratory protection (as determined by the Bureau's tests) as follows:

- (1) Four hours.
- (2) Three hours.
- (3) Two hours.
- (4) One hour.
- (5) Thirty minutes.
- (6) Fifteen minutes.
- (7) Ten minutes.
- (8) Three minutes.

Only apparatus classified for 15 minutes service time or longer, except as indicated below, will be approved for purpose of entry into and escape from an irrespirable atmosphere. Apparatus with a rated service time of 3 minutes or 10 minutes will not be approved for entry into an irrespirable atmosphere, except as indicated below. The maximum rated service time for any self-contained breathing apparatus for self-rescue is 30 minutes. A combination self-contained breathing apparatus for self-rescue and air-line respirator (supplied-air respirator) described in paragraph (b) of § 11.22, with a 3- or 10-minute self-contained service time air supply, may be used for entry into an irrespirable atmosphere, providing entry is made using the air line air supply. A combination self-contained breathing apparatus for self-rescue and air-line respirator (supplied-air respirator) with a 15- or 30-minute self-contained service time air supply, may be used for entry into an irrespirable atmosphere, providing entry is made using the air-line air supply or providing not more than 20 percent of the available self-contained air supply is used for entry. Apparatus classified for less than 1-hour service time will not be approved for use in underground mining, tunneling, and similar operations except as auxiliary equipment. Apparatus with a rated service time less than one-half hour will not be approved as auxiliary equipment.

§ 11.5 Applications.

(a) No investigation or testing (including retesting of apparatus that has been previously tested and disapproved) will be undertaken hereunder by the Bureau except pursuant to a written application, in duplicate, accompanied by all drawings, specifications, descriptions, and related matters and also a check, bank draft, or money order, payable to the Bureau of Mines to cover the fees. The application and all related matters and correspondence concerning it shall be addressed to the Bureau of Mines, Health and Safety Research and Testing Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213, Attention: Approval and Testing.

(b) Drawings, specifications, and descriptions shall be adequate in detail to identify fully all components and sub-

assemblies and the assembled apparatus. All drawings shall include title, number, and date; any revision dates shall be shown on the drawings, and the purpose of each revision shall be shown on the drawing or described on an attachment to the drawing to which it applies.

(c) Duplicate sets of detailed drawings and specifications shall be a part of the application. These shall fully describe the construction, dimensions, composition, materials, finishes, and assembly of all parts of the apparatus.

(d) The application shall state that, when tested by the applicant or his testing agency, the apparatus has met the pertinent requirements of Subparts B and C of this part. Two copies of the results of the applicant's inspections and tests shall accompany the application. The Bureau will, upon request, provide the applicant with drawings and descriptions of test equipment and will assist the applicant where possible in setting up a test laboratory or obtaining the services of a testing agency.

(e) The application shall state that the apparatus is completely developed and is a finished marketable product.

(f) The application shall describe the function of the apparatus and the operation of its parts.

(g) The application shall state how production items will be tested to maintain quality control of the apparatus and its component parts. The Bureau may have its qualified representative(s) inspect the applicant's control-test methods, equipment, and records, and may interview the personnel who conduct the control tests, at all reasonable times.

(h) When the Bureau notifies the applicant that the application has been accepted, it will also inform him of the number of complete apparatus and extra parts that will be required for testing. All test materials shall be delivered (charges prepaid) to the Bureau of Mines, Health and Safety Research and Testing Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213, Attention: Approval and Testing.

§ 11.6 Fees.

The following fees are charged for inspecting and testing self-contained breathing apparatus.

(a) Apparatus for entry into or escape from oxygen-deficient atmospheres or irrespirable vapors, gases, or aerosols:

(1) Complete 4-hour self-contained breathing apparatus inspection and tests	\$3,465
(2) Complete 3-hour self-contained breathing apparatus inspection and tests	\$3,275
(3) Complete 2-hour self-contained breathing apparatus inspection and tests	\$3,080
(4) Complete 1-hour self-contained breathing apparatus inspection and tests	\$2,890
(5) Complete ½-hour self-contained breathing apparatus inspection and tests	\$2,610
(6) Complete ¼-hour self-contained breathing apparatus inspection and tests	\$2,090

(b) Apparatus for escape only from oxygen-deficient atmospheres or from irrespirable vapors, gases, or aerosols

(c) Facepiece alone

(d) Fees for tests of unusually complicated apparatus, for unusual tests, or tests not included in this list or for tests required for extensions of approval, will be based on the actual costs of testing, which will be estimated in advance by the Bureau. The applicant will be notified accordingly, and the fee shall be paid before tests are begun. Any surplus will be refunded to the applicant.

(e) Where an apparatus requires less than a complete investigation, the fee will be in proportion to the work involved. If the applicant cannot determine the fee, the Bureau will notify him of the proper fee required. Any surplus will be refunded to the applicant.

NOTE: If a self-contained breathing apparatus fails to pass any of the required tests and the applicant notifies the Bureau to terminate further investigation or testing, the Bureau will return to the applicant any part of the fee not applied to its compensation for services. If the self-contained breathing apparatus is resubmitted for testing and approval after correcting the deficiencies, the additional fee will be estimated in advance by the Bureau and the applicant will be notified accordingly. Such fee shall be paid before tests are begun.

§ 11.7 Date for testing.

The date of acceptance of an application will determine its order of precedence for investigation and testing. The applicant, if he so specifies, will be notified of the date when tests on his apparatus will begin. If an apparatus fails to meet any of the requirements, it shall lose its order of precedence. If the application is resubmitted, after the cause of failure has been corrected, it will be treated as a new application.

§ 11.8 Conduct of investigations, tests, and demonstrations.

(a) Prior to the issuance of a certificate of approval, only Bureau personnel, representatives of the applicant, and such other persons as may be mutually agreed upon, may observe the investigations or tests. The Bureau shall hold as confidential, and shall not disclose, principles or patentable features prior to certification. It shall not disclose any analyses, nor any details of the applicant's drawings, specifications, and related material. The conduct of all investigations, tests, and demonstrations shall be under the sole direction and control of the Bureau. Any other persons shall be present only as observers or as required under paragraph (c) of this section.

(b) After the issuance of a certificate of approval, the Bureau may conduct such public demonstrations and tests of the approved apparatus as it deems appropriate.

(c) When requested by the Bureau, the applicant shall provide assistance in assembling or disassembling the apparatus and its components, subassemblies, or assemblies for testing, in preparing the apparatus and its components, subassemblies, or assemblies for testing, and

in operating the apparatus during the tests.

(d) Applicants shall be responsible for their representatives present during tests and for observers admitted at their request and shall save the Government harmless in the event of damage to applicant's property or injury to applicant's representatives or to observers admitted at their request.

§ 11.9 Certificate of approval.

(a) Certificates of approval will be issued hereunder only for completely assembled apparatus, and not for component parts or subassemblies.

(b) Upon completion of the investigation and testing of an apparatus, the Bureau will issue to the applicant either a certificate of approval or a written notice of disapproval. Informal notifications of approval will not be issued. If a certificate of approval is issued, no test data or detailed results will accompany it. If a notice of disapproval is issued, it will be accompanied by any available information about the defects, with a view to possible correction. The Bureau will not disclose, except to the applicant, any information on an apparatus upon which a notice of disapproval has been issued.

(c) A certificate of approval will be accompanied by a list of drawings and specifications covering the details of design and construction of the apparatus. The applicant shall keep exact duplicates of the drawings and specifications submitted to the Bureau. The approved drawings and specifications shall be adhered to exactly in commercial production of the certified apparatus.

§ 11.10 Approval labels and markings.

(a) A certificate of approval will be accompanied by photograph(s) of design(s) of approval label(s). Legible reproductions of the entire label(s) shall be attached permanently to each apparatus. When, in the Bureau's opinion, there is insufficient space, or some other valid reason, the label(s) may be reproduced on the apparatus instructions. The label(s) will bear the seal of the Bureau of Mines, the approval number, the manufacturer's name and address, the duration of use for which the apparatus is approved, and the limitations or conditions for safe and efficient use of the apparatus.

(b) The Bureau will notify the applicant if any additional labels or markings will be required on subassemblies and parts.

(c) Full-scale reproductions of approval labels and markings and a sketch or description of their method of application and position on the apparatus shall be submitted to the Bureau for approval before final adoption.

(d) Use of the Bureau's approval label obligates the applicant to maintain the quality of the apparatus and to guarantee that it is manufactured according to the drawings and specifications upon which the certificate of approval is based. The approval label shall be used only by the applicant.

§ 11.11 Material required for record.

(a) The Bureau will retain, as part of the permanent record of each investigation, a complete apparatus and any component thereof that has been tested and certified. Material not required for record will be returned to the applicant at his request and expense.

(b) As soon as a certified apparatus is commercially available, the applicant shall deliver one complete unit free of charge to the Bureau of Mines, Health and Safety Research and Testing Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213, Attention: Approval and Testing.

§ 11.12 Changes after certification.

If an applicant desires to change any feature of a certified apparatus, he shall first obtain the Bureau's approval of the change, pursuant to the following procedure:

(a) Application shall be made as for an original certificate of approval, requesting that the existing certification be extended to cover the proposed change(s). The application shall be accompanied by drawings, specifications, and related material in full detail.

(b) The application and accompanying material will be examined by the Bureau to determine whether testing will be required. The Bureau will inform the applicant of the fee required for any testing involved.

(c) If the proposed modification meets the requirements of this part, a formal extension of certification will be issued, accompanied by a list of new and revised drawings and specifications covering the change(s).

§ 11.13 Withdrawal of certification.

The Bureau reserves the right to rescind, for cause, any certificate of approval issued under this part.

Subpart B—Design, Construction, Requirements, and Bench Tests

§ 11.20 Design and construction.

(a) The Bureau will only investigate and test apparatus that, in its opinion, is constructed of suitable materials, evidences good workmanship, and is designed on sound engineering and scientific principles. The following factors of design and construction will be evaluated: Safety; distribution of weight; durability of construction; practicability of wearer use including comfort, field of vision, fit of mouthpiece, noseclip, facepiece, and harness; and performance during investigation and testing, including any adverse effects on the wearer of the apparatus.

(b) All possible designs, assemblies, or combination of materials and components cannot be foreseen. The Bureau, therefore, reserves the right to modify or omit any test(s) or part(s) of any test(s) described in Subparts B and C of this part, or to perform other test(s) not specifically stated, in order to obtain the necessary information and to provide the same degree of safety as required by the test requirements described in this part. The Bureau will notify the appli-

cant of any changes in the tests or requirements.

§ 11.21 Requirements and tests.

(a) *General requirements.* All parts of the apparatus shall be designed and constructed for maximum safety of the wearer. Parts requiring frequent replacement shall be easily replaceable and after such replacement the effectiveness of the apparatus shall be restored. The construction of the apparatus shall readily permit inspection, testing, and repair of functional parts by persons skilled in such work. All parts requiring cleaning and disinfection shall be readily accessible for this purpose. All parts of the apparatus that are in direct contact with portions of the wearer's body shall be of nonirritating composition.

(b) *Breathing gas requirements.* Self-contained breathing apparatus shall be approved for use only when it supplies respirable breathing gas to the wearer. Oxygen (including liquid oxygen) shall meet the requirements of the United States Pharmacopeia for medical or breathing oxygen. Compressed (gaseous) breathing air shall meet the most recent requirements of the Compressed Gas Association Commodity Specification for Air, G-7.1, Type I, Grade D, gaseous air. Compressed (liquefied) breathing air shall meet the most recent requirements of the Compressed Gas Association Commodity Specification for Air, G-7.1, Type II, Grade B, liquid air. In no case, however, the named specifications notwithstanding, shall the breathing air supplied by the apparatus contain less than 20.5 volume-percent of oxygen (see also § 11.31(d)(4)). No apparatus will be approved for interchangeable use of air and oxygen.

(c) *Requirements and tests for component parts.* The following requirements shall apply to all self-contained breathing apparatus, except where specifically indicated below.

(1) *Facepiece.* If a facepiece is used, it shall assure a gas-tight fit on persons of widely varying facial shapes and sizes. The applicant shall certify that the eye-piece(s) meets the pertinent requirements for impact and penetration specified in the most recent United States of America Standards Institute Safety Code for Eye Protection. The wearer's field of vision shall be adequate and not distorted by the eye-piece(s). The design of facepiece shall minimize eye-piece fogging. Facepiece exhalation valves or pressure relief valves and inhalation valves shall be protected against distortion. An adjustable head harness capable of maintaining tension under all circumstances shall be furnished. The facepiece shall have, or be capable of having added to it, a provision for the use of corrective spectacles. The use of spectacles shall not reduce the respiratory protective qualities of the apparatus.

(2) *Mouthpiece and noseclip.* If a mouthpiece and noseclip are used, both shall be provided. An adjustable head harness capable of maintaining tension under all circumstances shall be furnished. They shall provide an air-tight

seal and shall be securely attached to the apparatus to prevent accidental loss.

(3) *Gas and liquid container(s).* Compressed-breathing gas container(s) shall be acceptable for interstate shipment when fully charged and shall comply with pertinent requirements in Department of Transportation or Interstate Commerce Commission Specification 3AA or other applicable DOT or ICC regulation. Compressed-breathing gas container valves shall be equipped with outlet threads specified for the service by the United States of America Standards Institute Standard for Compressed Gas Cylinder Valve Outlet and Inlet Connections, B57.1—1965. Containers that are normally removed from the apparatus for refilling shall be permanently and legibly marked with the name of their contents, such as compressed-breathing air, compressed-breathing oxygen, liquefied-breathing air, or liquefied-breathing oxygen. Compressed-breathing-gas containers, when they are normally removed from the apparatus for refilling, shall be equipped with a dial-indicating gage to show container pressure. The gage shall meet the requirements of subparagraph (4) of this paragraph.

(4) *Gages.* (i) Gas pressure gages (except compressed-breathing-gas container gages) shall be calibrated either in pounds per square inch or in fractions of the total container capacity, or both. Compressed-breathing-gas container gages shall be calibrated in pounds per square inch and may also be calibrated in fractions of total container capacity.

(ii) Liquid-level gages shall be calibrated in fractions of the total container capacity and may also be calibrated in units of liquid volume.

(iii) Dial-indicating gages shall be reliable to within 5 percent of full scale when tested both up and down the scale at each of 10 equal intervals. The full-scale graduation of the gage shall not be in excess of 150 percent of the maximum cylinder pressure allowed under applicable regulations of the Department of Transportation or the Interstate Commerce Commission.

(iv) Stem-type gages shall be readable by sight and by touch and shall have a stem travel distance not less than one-fourth inch between each graduation. At least five graduations shall be engraved on the stem, including empty, one-quarter, one-half, three-quarters, and full. Stem gage readings shall not vary from true readings by more than 1/16-inch per inch of stem travel.

(v) The loss of gas through a broken gage or severed gage connection shall not exceed 70 liters per minute when the cylinder pressure is 1,000 pounds per square inch gage or the liquid level at one-half.

(vi) When a gage is connected to the remainder of the apparatus through a gage line, a means shall be provided to isolate the gage and line from the apparatus, unless failure of the gage or line does not impair performance or service life of the apparatus.

(vii) Oxygen gages shall have the words, "Use No Oil," marked prominently on the gage.

(viii) Apparatus using compressed or liquefied breathing gas, except apparatus for self-rescue, shall have, visible to the wearer, a gage that indicates remaining gas or liquid content.

(5) *Timers.* A timer shall be included on oxygen-generating apparatus (except apparatus only for self-rescue). It shall be accurately calibrated in minutes of remaining service life. It shall be discernible by the wearer's sight and touch while the apparatus is in use. Setting of the timer shall automatically set an alarm which will warn the wearer for not less than 10 seconds after the preset time has elapsed.

(6) *Remaining service-life indicator or warning.* Apparatus (except apparatus only for self-rescue) using compressed-breathing gas shall have a remaining service-life indicator or warning device in addition to a pressure gage. The device shall operate automatically, without preadjustment by the wearer, when the remaining service life is reduced to between 20 and 25 percent of the rated service time of the apparatus. If the device depends on gas flow, the maximum flow-rate of gas vented to the atmosphere, that is used to operate such a device shall not exceed 4 liters per minute. When used on closed-circuit apparatus, not more than 1 liter per minute of the actuating gas shall be permitted to escape from the breathing circuit.

(7) *Hand-operated valves.* (i) Valves shall be designed so that the stem cannot be completely removed from the valve body during normal usage and so that the full pressure of the container cannot be released suddenly when the valve is opened. Valves that must be manipulated during the use of the apparatus shall be positioned where they can be readily operated by the wearer. Valves shall be protected from damage by external forces. Valves shall be easily distinguishable from each other and shall be designed or positioned to prevent accidental closing.

(ii) A main-line valve shall be provided, in addition to a gas-container valve(s), if it is needed to conserve gas in the event of regulator or demand valve failure, except as provided in subdivision (iv) of this subparagraph.

(iii) A hand-operated bypass system shall be provided to permit the wearer to breathe and to conserve his gas supply if the regulator or demand valve fails except as provided in subdivision (iv) of this subparagraph. The bypass control shall be colored red.

(iv) A main-line valve and bypass system will not be required on apparatus for escape only.

(8) *Breathing bag.* When a breathing bag(s) is used on an apparatus (except for self-rescue only), it shall be designed or protected to prevent damage or collapse from external force. The bag(s) of all apparatus shall be of sufficient volume to prevent gas waste during exhalation and to provide an adequate reserve for inhalation, as determined by man tests

described in Subpart C of this part. The bag(s) shall be flexible and resistant to gasoline vapors. The bag(s) will be tested in an air atmosphere saturated with gasoline vapor at room temperature (75°–85° F.) for a continuous period of twice the rated time of the apparatus (except for apparatus for self-rescue only where the test period shall be the rated time of the apparatus). The bag(s) will be operated during this test by a breathing machine with 24 respirations per minute and a minute-volume of 40 liters. A breathing machine cam with a work rate of 622 kg-m/min¹ will be used. The air within the bag(s) shall not contain more than 100 parts per million of gasoline vapor at the end of the test.

(9) *Carrying or storage container.* Where a carrying or storage container or bracket is supplied by the applicant for use with a self-contained breathing apparatus, the container shall be examined and approved by the Bureau as part of the complete apparatus.

(10) *Safety relief valves or system.* All closed-circuit apparatus shall be provided with a safety pressure-relief valve or system that will release excess pressure in the breathing circuit. Excess pressure in the breathing circuit is defined as 1/2-inch-water-column height of pressure, or more, above the minimum pressure required to fill the breathing bag within the resistance requirements in paragraph (d) (2) of this section. The safety relief valve, or system shall be operated automatically by the pressure on the inhalation side of the bag. The valve or system shall also permit manual overriding for test purposes and in the event of failure of the safety relief valve or system. The safety relief valve or system shall be designed to prevent external atmospheres from entering the breathing circuit.

(d) *Requirements and tests for complete apparatus.* (1) *Weight.* The completely assembled and fully charged apparatus shall not weigh more than 35 pounds; except that when the weight of an apparatus decreases by more than 25 percent of its initial charge weight during its service life, the completely assembled and fully charged apparatus shall not weigh more than 40 pounds. When an apparatus is equipped with a device which would contribute materially to the wearer's comfort (such as a cooling system), the completely assembled and fully charged apparatus shall not weigh more than 40 pounds regardless of the decrease in weight during use.

(2) *Breathing resistance.* (i) *Inhalation.* Resistance to airflow will be measured at the facepiece while the apparatus is operated by a breathing machine as described in paragraph (c) (8) of this section. The inhalation resistance of open-circuit apparatus shall not exceed 1.25-inch-water-column height. The inhalation resistance of closed-circuit apparatus shall not exceed the difference

¹ Silverman, L., G. Lee, T. Plotkin, L. Amory, and A. R. Yancey, Fundamental Factors in Design of Protective Equipment, O.S.R.D. Report No. 5732, issued April 1, 1945.

between exhalation resistance and 4 inches of water-column height.

(ii) *Exhalation.* Resistance to airflow at the facepiece of open-circuit apparatus will be measured with air flowing at a continuous rate of 85 liters per minute. The exhalation resistance of demand apparatus shall not exceed 1 inch of water-column height. The exhalation resistance of pressure-demand apparatus shall not exceed the static pressure in the facepiece by more than 2 inches of water-column height. The static pressure (at zero flow) in the facepiece shall not exceed 1.5 inches of water-column height.

Resistance to airflow at the facepiece of closed-circuit apparatus will be measured as described in subdivision (i) of this subparagraph. The exhalation resistance shall not exceed 2 inches of water-column height.

(3) *Gas flow*—(i) *Open-circuit apparatus.* A static-flow test will be performed on all open-circuit apparatus. The flow from the apparatus shall be greater than 200 liters per minute when the facepiece pressure is lowered by 2 inches water-column height below the static pressure when full container pressure is applied. Where compressed-breathing-gas containers are used, the flow test shall also be made with 500 p.s.i.g. container pressure applied.

(ii) *Closed-circuit apparatus.* If oxygen is supplied by a constant-flow device only, the rate of flow shall be at least 3 liters per minute for the entire rated service time of the apparatus. When constant flow is used in conjunction with demand flow, the constant flow shall be greater than 1.5 liters per minute for the entire service time. The demand-flow device shall provide at least 20 liters of oxygen per minute when it is in the fully open position.

(4) *Rated service time*—(i) *Open-circuit apparatus.* The apparatus will be rated according to the length of time it supplies air or oxygen to a mechanical breathing machine. The breathing machine shall operate as described in paragraph (c) (8) of this section. The service time obtained on this test will be used to classify the apparatus in § 11.4(c).

(ii) *Closed-circuit apparatus.* The apparatus will be rated according to the length of time it supplies adequate breathing gas to the wearer as required in subparagraphs (2) (Inhalation resistance) and (5) (carbon dioxide concentration) of this paragraph, and during man test No. 4 described in Table 4, § 11.31. The service time obtained on man test No. 4 will be used to classify the apparatus in § 11.4(c).

(5) *Carbon dioxide in inspired gas.* (i) *Open-circuit apparatus:* The concentration of carbon dioxide in inspired gas will be measured at the mouth while the apparatus mounted on a dummy head is operated by a breathing machine. The breathing rate shall be 14.5 respirations per minute with a minute-volume of 10.5

liters. A sedentary breathing machine cam² shall be used. The apparatus shall be tested at a temperature of $80 \pm 5^\circ \text{F}$. A concentration of 5 percent carbon dioxide in air shall be exhaled into the facepiece. Tested in this manner, the apparatus shall meet the requirements of subdivision (iii) of this subparagraph.

(ii) *Closed-circuit apparatus:* The concentration of carbon dioxide will be measured at the mouth while the parts of the apparatus contributing to dead-air space are mounted on a dummy head. Tested in this manner the apparatus shall meet the requirements of subdivision (iii) of this subparagraph.

(iii) The concentration of carbon dioxide at the mouth shall be continuously recorded. The maximum average concentration during the inhalation portion of the breathing cycle shall be less than the following:

Where the rated service time is:	Maximum allowable average concentration of carbon dioxide in inspired air, percent by volume
Not more than 30 minutes.....	2.5
1 hour.....	2.0
2 hours.....	1.5
3 hours.....	1.0
4 hours.....	1.0

(iv) In addition, during the man tests described in Tables 1 through 4 in § 11.31, gas samples shall be taken from closed-circuit apparatus at a point downstream of the carbon dioxide sorbent. The samples shall not contain more than 0.5 percent carbon dioxide at any time.

(6) *Low-temperature operation*—(i) *Open-circuit apparatus.* The apparatus will be precooled at -25°F . for 4 hours. It will then be worn in a low-temperature chamber at -25°F . for 30 minutes or for the rated service time of the apparatus, whichever is less. During this test there shall be alternate periods of exercise and rest for 1 minute each for the required time. The exercises to consist of stepping onto and off a box $8\frac{1}{2}$ inches high at a rate of 30 cycles per minute. The apparatus shall function satisfactorily on duplicate tests. The wearer shall have sufficient unobscured vision to perform the work. The wearer shall not experience undue discomfort because of airflow restriction or other physical or chemical changes in the operation of the apparatus. If necessary, auxiliary low-temperature parts may be used on the apparatus to meet the requirements of this test. These parts shall be commercially available to the user of the apparatus.

(ii) *Closed-circuit apparatus.* The applicant shall specify the minimum temperature for safe operation. Three persons will perform the tests described in

² Work cited in footnote 1.

subdivision (i) of this subparagraph, wearing the apparatus according to the applicant's directions at the minimum temperature specified by the applicant. At the specified temperature, the apparatus shall meet all the requirements described in subdivision (i) of this subparagraph.

§ 11.22 Requirements for combination self-contained breathing apparatus and another type of respiratory protective device.

(a) Respiratory protective devices combining the characteristics of a self-contained breathing apparatus and another type of respiratory protective device shall meet the requirements of this part as well as the requirements of any other part which is applicable to the total purpose of the device for which approval is sought. The approval, if granted, will be issued under this part. The Bureau will specify, in the certificate of approval and on the approval label, the limitations which shall apply to the use of the combination respiratory protective device.

(b) When the device is a combination self-contained breathing apparatus and air-line respirator (supplied-air respirator) either a manual or automatic valve(s) shall be provided to change to the self-contained air supply if the air-line supply fails, and to prevent the wearer breathing contaminated air from the outside atmosphere. If a manual valve is provided, it shall be easily operable and located in a position which is convenient to the wearer; a warning device shall be provided to alert the wearer when the self-contained air supply falls below 80 percent of its full container pressure. If an automatic valve is provided, a warning device shall also be provided to alert the wearer that he is breathing from the self-contained air supply, (1) when his normal air-line supply fails, or (2) when the self-contained air supply falls below 80 percent of its full container pressure. A quick disconnect and check valve shall be provided between the apparatus and the air-line supply hose to permit ready escape from the area, and to prevent loss of breathing air from the device or inhaling the surrounding atmosphere, respectively.

Subpart C—Man Tests

§ 11.30 General description of tests.

(a) The following tests represent the workload a man would perform while wearing an apparatus in the mining, mineral, and allied industries.

(b) The apparatus will be worn by Bureau of Mines personnel who are trained in the use of self-contained breathing apparatus. Before participation in any of these tests, the wearer shall pass a physical examination by a qualified physician. If a test is not completed through no fault of the apparatus, the test shall be repeated.

(c) Breathing resistance will be measured within the facepiece or mouthpiece. The wearer's pulse and respiration rates will be recorded during the 2-minute sample periods indicated in Tests 1 through 4, below. These will evaluate the wearer's physiological reactions to wearing the apparatus.

(d) All tests will be conducted by the Bureau of Mines in an appropriate gallery.

(e) The apparatus will be examined before each test to make certain it is in proper working order.

§ 11.31 Test procedures and requirements.

Tests 1 through 6, inclusive shall be performed in duplicate.

(a) Tests 1, 2, 3, and 4. The duration of specific activities and their sequence for Tests 1 through 4 are given in Tables 1 through 4. These tests are designed to familiarize the wearer with the apparatus, provide a gradual increase in activity, evaluate the apparatus under different types of work and physical orientation of the wearer, and to provide information on the operating and breathing characteristics of the apparatus under anticipated conditions of use.

(b) Test 5. This test will determine the maximum length of time the apparatus will supply the respiratory needs of the wearer while he is sitting at rest. The wearer will manipulate the devices controlling the supply of breathing gas to the advantage of the apparatus. Samples of the atmosphere within the apparatus shall be taken once every 15 minutes for apparatus with rated service times of 1 hour or less and once every 30 minutes for apparatus rated over 1 hour. One sample will be taken in the case of 3- and 10-minute apparatus.

(c) Test 6. This test is applicable to liquefied-breathing gas apparatus only. It is designed to evaluate operation of the apparatus in other than vertical positions. The wearer shall lie face downward for one-fourth the service life of the apparatus with both full and one-quarter full charges of liquefied gas. The test will be repeated with the wearer lying on each side and on his back. The oxygen content of the gas supplied to the wearer by the apparatus will be continuously measured.

(d) General requirements. (1) The apparatus shall satisfy the respiratory requirements of the wearer for the rated service time.

(2) Fogging of the eyepiece(s) shall not obscure the wearer's vision and the wearer shall not experience undue discomfort because of fit or other characteristics of the apparatus.

(3) The temperature of inspired air should be minimal. The maximum temperature of inspired air during man tests shall not exceed the following:

Where service life of apparatus is—	Where percent relative humidity of inspired air is—	Maximum permissible temperature (°F) of inspired air shall not exceed—
½ hour or less.....	0-50	125
	50-100	110
1 to 2 hours.....	0-50	115
	50-100	105
3 hours.....	0-50	110
	50-100	100
4 hours.....	0-50	105
	50-100	95

Man tests will be conducted only when the ambient temperature is between 65° F. and 85° F., except as provided in § 11.21(d).

TABLE 1.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 1, IN MINUTES

Activity	Rated service time—					
	3 minutes	10 minutes	15 minutes	30 minutes	1 hour	2, 3, and 4 hours
Sampling and readings.....			2	2	2	Perform 1 hour test 2, 3, or 4 times, respectively.
Walks at 3 miles per hour.....	3	3	4	8	18	
Sampling and readings.....		2	2	2	2	
Walks at 3 miles per hour.....		3	5	8	18	
Sampling and readings.....		2	2	2	2	
Walks at 3 miles per hour.....				6	16	
Sampling and readings.....				2	2	

TABLE 2.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 2, IN MINUTES

Activity	Rated service time—					
	3 minutes	10 minutes	15 minutes	30 minutes	1 hour	2, 3, and 4 hours ¹
Sampling and readings.....			2	2	2	2.
Walks at 3 miles per hour.....		1	1	3	6	10.
Carries 50 pound weight over over-cast.....		1 time in 2 minutes.	1 time in 2 minutes.	2 times in 4 minutes.	4 times in 8 minutes.	5 times in 10 minutes.
Walks at 3 miles per hour.....			1	3	3	5.
Climbs vertical treadmill ² (or equivalent).....	1	1	1	1	1	1.
Walks at 3 miles per hour.....		1			3	5.
Climbs vertical treadmill (or equivalent).....					1	1.
Sampling and readings.....				2	2	2.
Walks at 3 miles per hour.....			2	2	6	11.
Climbs vertical treadmill (or equivalent).....			1	1	1	1.
Carries 50 pound weight over over-cast.....			1 time in 2 minutes.	3 times in 6 minutes.	5 times in 10 minutes.	5 times in 10 minutes.
Sampling and readings.....		2			2	2.
Walks at 3 miles per hour.....			1	3	3	
Climbs vertical treadmill, or equivalent.....		1		1	1	Then repeat above activities once.
Walks at 3 miles per hour.....		2			3	
Climbs vertical treadmill (or equivalent).....					1	
Carries 45 pound weight and walks at 3 miles per hour.....	1				2	
Walks at 3 miles per hour.....	1				4	
Sampling and readings.....			2	2	2	

¹ Total test time for Test 2 for 2-hour, 3-hour, and 4-hour apparatus is 2 hours.

² Treadmill shall be inclined 15 degrees from vertical and operated at a speed of 1 foot per second.

TABLE 3.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 3, IN MINUTES

Activity	Rated service time—					
	3 minutes	10 minutes	15 minutes	30 minutes	1 hour	2, 3, and 4 hours ¹
Sampling and readings.			2.	2.	2.	Perform test No. 3 for 1 hour apparatus, then perform test No. 1 for 1 hour apparatus.
Walks at 3 miles per hour.		1.	1.	1.	3.	
Runs at 6 miles per hour.	1.	1.	1.	1.	1.	
Pulls 45 pound weight to 5 feet.			30 times in 2 minutes.	30 times in 2 minutes.	60 times in 6 minutes.	
Lies on side.	1/2.	1.	2.	3.	5.	
Lies on back.	1/2.	1.	2.	2.	3.	
Crawls on hands and knees.	1.	1.	2.	2.	2.	
Sampling and readings.		2.		2.	2.	
Runs at 6 miles per hour.			1.	1.	1.	
Walks at 3 miles per hour.				2.	10.	
Pulls 45 pound weight to 5 feet.		30 times in 2 minutes.		60 times in 6 minutes.	60 times in 6 minutes.	
Sampling and readings.			2.		2.	
Walks at 3 miles per hour.		1.		3.	10.	
Lies on side.					4.	
Lies on back.					1.	
Sampling and readings.				2.	2.	

¹ Total test time for Test 3 for 2-hour, 3-hour, and 4-hour apparatus is 2 hours.

TABLE 4.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 4, IN MINUTES

Activity	Rated service time—							
	3 minutes	10 minutes	15 minutes	30 minutes	1 hour	2 hours	3 hours	4 hours
Sampling and readings.			2.	2.	2.	Perform test No. 1 for 30-minute apparatus, then perform test No. 4 for 1-hour apparatus, then perform test No. 1 for 1-hour apparatus.	Perform test No. 1 for 1-hour apparatus, then perform test No. 4 for 1-hour apparatus, then perform test No. 1 for 1-hour apparatus.	Perform test No. 1 for 1-hour apparatus, then perform test No. 4 for 1-hour apparatus, then perform test No. 1 for 1-hour apparatus twice (i.e., two one-hour tests).
Walks at 3 miles per hour.			1.	1.	2.			
Climbs vertical treadmill ¹ (or equivalent).	1.	1.	1.	1.	1.			
Walks at 3 miles per hour.		1.	1.	2.	2.			
Pulls 45 pound weight to 5 feet.		30 times in 2 minutes.	30 times in 2 minutes.	60 times in 5 minutes.	60 times in 5 minutes.			
Walks at 3 miles per hour.		1.	1.	1.	1.			
Carries 50 pound weight over over-cast.			1 time in 1 minute.	1 time in 1 minute.	4 times in 8 minutes.			
Sampling and readings.		2.		2.	2.			
Walks at 3 miles per hour.			1.	3.	4.			
Runs at 6 miles per hour.		1.	1.	1.	1.			
Carries 50 pound weight over over-cast.		1 time in 1 minute.	1 time in 1 minute.	2 times in 3 minutes.	6 times in 9 minutes.			
Pulls 45 pound weight to 5 feet.	15 times in 1 minute.		15 times in 1 minute.	60 times in 5 minutes.	36 times in 3 minutes.			
Sampling and readings.			2.	2.	2.			
Walks at 3 miles per hour.	1.	1.		6.	6.			
Pulls 45 pound weight to 5 feet.				60 times in 5 minutes.				
Carries 45 pound weight and walks at 3 miles per hour.				3.	3.			
Sampling and readings.				2.	2.			

¹ Treadmill shall be inclined 15 degrees from vertical and operated at a speed of 1 foot per second.

[F.R. Doc. 68-8289; Filed, July 18, 1968; 8:45 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 151—SERVICE IN POST OFFICES

Nonavailability of Boxes of Adequate Size

A notice of proposed rule making was published in the FEDERAL REGISTER of May 22, 1968 (33 F.R. 7575) consisting of a revision of § 151.3(c) (4) to provide for the assignment of a smaller box when there is no box available which is large enough to accommodate the average daily mail of a patron. In such cases, if the volume warrants, a bag or other container may be used in lieu of the box. The fee for this service would be equivalent to the rental rate for a box large enough to accommodate the daily mail volume. In addition, it was proposed that when no boxes of any size are available, patrons receiving a substantial quantity

of mail would be provided firm holdout service or firm call service whereby an authorized firm employee may pick up the mail at the post office in lieu of delivery service.

Interested persons were given 30 days in which to submit written comments concerning the proposals. Based on the two comments received, the Department has concluded to adopt the proposals.

Accordingly, § 151.3(c) (4) reads as follows and will be effective 30 days after publication of this notice in the FEDERAL REGISTER:

§ 151.3 Post office boxes.

(c) Rental rates. * * *

(4) When boxes of adequate size are not available. When a box large enough to accommodate the daily average mail of a patron is not available, a smaller available box may be assigned. In such cases, if the volume warrants, a bag or other container may be used in lieu of

placing the mail in the box. The fee for this service will be equivalent to the rental that would be collected for the size box necessary to accommodate the average daily mail volume. If the average daily mail volume exceeds the capacity of the largest box in the installation, the rental fee for the largest box will be collected. When there are no boxes of any size available, qualifying patrons (firms regularly receiving 50 or more letters on the first delivery trip), may be provided firm holdout service or firm call service, until a box can be assigned.

NOTE: The corresponding Postal Manual section is 151.334.

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

TIMOTHY J. MAY,
General Counsel.

JULY 15, 1968.

[F.R. Doc. 68-8578; Filed, July 18, 1968; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER C—MINERALS MANAGEMENT
[Circular 2243]

PART 3120—OIL AND GAS

Subpart 3123—Noncompetitive Leases

MISCELLANEOUS AMENDMENTS

On page 13196 of the FEDERAL REGISTER of September 16, 1967, there was published a notice of proposed rule making to amend the regulations involving the simultaneous oil and gas drawing procedures. Interested persons were given thirty (30) days in which to submit written comments, suggestions, or objections. After consideration of the comments received it was determined to further study the proposal except for the two amendments hereinafter listed. Such amendments are hereby approved.

1. Subparagraph (3) of § 3123.2(c) is amended to read:

§ 3123.2 What should accompany offer.

(c) * * *

(3) A signed statement by the offeror that he is the sole party in interest in the offer and the lease, if issued; if not he shall set forth the names of the other interested parties. If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them if oral, and a copy of such agreement if written. All interested parties must furnish evidence of their qualifications to hold such lease interest. Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the lease offer. Failure to file the statement and written agreement within the time allowed will result in the cancellation of any lease that may have been issued pursuant to the offer. Upon execution of the lease the first year's rental will be earned and deposited in the U.S. Treasury and will not be returnable even though the lease is canceled.

§ 3123.9 [Amended]

2. The last sentence of § 3123.9(b) is revoked.

Effective date. These revisions shall become effective 30 days from date of publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

JULY 12, 1968.

[F.R. Doc. 68-8575; Filed, July 18, 1968; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 68-739]

PART 1—PRACTICE AND PROCEDURE

Interim Criteria to Govern Acceptance of Standard Broadcast Applications

Report and order. 1. On May 10, 1962, the Commission amended its procedural rules¹ for the purpose of bringing a limited halt to the further acceptance of standard broadcast applications pending rule making. At the time the freeze was imposed, there were 3,871 AM stations either licensed or under construction. By the end of this month the total number of authorized AM stations will have reached 4,300.² Using the same dates, the number of authorized FM stations (including 378 educational facilities) has climbed from 1,393 to 2,472. Thus, there are now approximately 6,772 aural stations authorized throughout the United States. Combined with the applications on file and those in hearing status the number of potential aural stations easily exceeds 7,000.

2. In issuing the aforementioned freeze,³ we acknowledged that our previously stated aim of fostering local outlets and encouraging competition in the industry often worked at cross-purposes with our objective of eradicating "white" areas, i.e., areas lacking primary service. For, as we pointed out in our freeze order, even as AM radio underwent rapid growth, the "white" area problem remained:

A large majority of communities⁴ of 10,000 and over (and many with a population of under 10,000) have their own local outlets. There are few counties in the United States which do not have a choice of multiple signals. Multistation communities have grown similarly, so that lack of competition in the standard broadcast band can no longer be regarded as a serious problem. At the same time, this tremendous proliferation of stations has occurred without significant reduction of "white" areas. The outlying areas which lacked primary service in 1946 have been reduced only a minute degree by the continual flow of new assignments. More than this, concentration upon the creation of multistation markets has led to a derogation of engineering standards, so that service rendered by existing stations in the outermost regions of their normally protected service areas has been impaired, future power increases to extend the interference-free contour over growing suburban populations are often rendered impossible, and the available channels for the establishment of new stations in growing underserved areas have been continually reduced in number.

¹ Suburban communities within standard metropolitan statistical areas are not considered separate communities for the purpose of this analysis.

² Report and Order, FCC 62-516, 23 RR 1545.

³ Including 25 educational stations.

⁴ Note 1, supra.

Principally for the above reasons, the Commission then concluded that it was time to reexamine its allocation policies.

3. Subsequently, on July 10, 1964, after extensive rule making proceedings, new AM standards were adopted and the freeze lifted.⁴ The new "go-no go" rules⁵ established a system prohibiting the overlap of specified signal strength contours. Basically, the system was designed (i) to prevent the continuous erosion of existing service caused by incremental interference which had been taking place at an alarming rate under the previous ad hoc allocation method; (ii) to encourage applications for underserved areas by providing less stringent daytime standards for parties proposing to build a first local station in a community⁶ or bring a first primary service to 25 percent of the area within the proposed 0.5 mv/m contour; and (iii) to foster eradication of nighttime "white" area by requiring new nighttime applicants to provide a first primary service to 25 percent of their proposed service areas.⁷

4. From the standpoint of the first objective, the new rules have been successful. Less than 10 waivers have been granted to proposals involving prohibited overlap to existing stations, and in each case the interference has been de minimis. This is in contrast to a prefreeze study which indicated that 21 percent of new station applications granted caused objectionable interference to existing operations.⁸

5. With respect to the remaining two objectives, namely, the encouragement of applications to build first local services and the fostering of proposals to eradicate both day and night "white" areas, the present rules appear to have met with only limited success. Of the 32 new stations authorized this year under the present prohibited overlap system only two proposed to serve any daytime "white" area, and in both instances the areas were relatively small.⁹ Since none of the new stations was authorized to operate on a full-time basis, no nighttime "white" area was eliminated. Furthermore, although 22 of the new stations will bring a first local transmission service to their respective communities, the justification for these allocations is somewhat diminished by the fact that the median population of the towns is only 2,850. Moreover, it must be remembered

⁴ Report and Order, FCC 62-516, 23 RR 1545.

⁵ 47 CFR 73.24(b), 73.37.

⁶ If located in an urbanized area, the minimum population required was 25,000.

⁷ This 25 percent "white" area requisite was eventually liberalized to allow proposals to qualify if 25 percent of the population within the proposed service area was without primary service. Order adopted Feb. 28, 1968, 11 FCC 2d 924.

⁸ Note 7, Report and Order, FCC 62-516, 23 RR 1545.

⁹ In addition, all but five of these 32 communities are within the primary (1 mv/m) service area of an existing FM station.

that daytime-only authorizations, particularly as the band becomes more congested, tend to preclude establishment of more desirable full-time stations on the same or adjacent channels by preempting many potential locations over a wide area.

6. The above analysis leads us to conclude that we must make a study to decide whether (i) a significant national need for new AM stations or major changes in existing stations which would not serve underserved areas still exists; (ii) presently available frequency space should be conserved for future use in developing areas and to eradicate what "white" area remains; (iii) any future allocation system should view AM and FM as a single aural service; and (iv) further AM assignments on a demand basis constitute unwise use of valuable spectrum space. Since a flood of new applications under the present rules would tend to frustrate the very purposes of the forthcoming rule making proceeding, we find it necessary, in the public interest, to freeze the filing of additional proposals consistent with procedural fairness and case law.³⁰ There are a number of Class IV stations near the Mexican border which heretofore have been prohibited by the terms of the United States-Mexican Standard Broadcast Agreement from increasing daytime power. At the present time, the agreement is being renegotiated. If a new agreement is ratified, it may make provision for these stations and afford them their first opportunity to increase power. In that event, we will accept and process whatever applications are consistent with the new agreement. We will also accept applications required because of circumstances beyond the control of existing station applicants, e.g., where a transmitter site change is necessitated by storm damage or condemnation of property. Applications which are mutually exclusive with renewal applications will likewise be accepted, as will applications for changes in existing allocations which may be required by international commitments.

7. Presently, there are on file approximately 400 applications for new stations and major changes in existing stations. In view of the public interest considerations involved, we believe that we should continue to process these proposals according to the rules under which they are tendered. The great majority of these applications have been "cut-off" in accordance with § 1.571(c) of the Commission's rules. There is a relatively small number, however, that have not. These applications will be placed on a "cut-off" list in order to afford interested parties the opportunity of filing conflicting proposals. Lest a chain of mutually exclusive proposals be forged, however, only those applications which conflict directly with those on the "cut-off" list will be accepted. In that manner, the Commission will be able to predict, with some degree of certitude, the location and total num-

ber of potential grants. Finally, we wish to stress that applicants, in addition to qualifying under the interim criteria, must also meet present acceptability standards.³¹

8. Regarding waiver requests, we wish to note that, as in the last freeze, we believe the basic policy considerations underlying the freeze are of the utmost importance. As such, they override the usual equities presented, and only the most extraordinary grounds will justify waiver of these policy considerations. See *United States v. Storer Broadcasting Company*, 351 U.S. 192 (1956).

9. Since the interim procedures set forth in the appendix hereto relate to matters of practice and procedure before the Commission, proposed rule making in accordance with the provisions of section 4 of the Administrative Procedure Act is not required. Authority for the adoption of the interim procedures is contained in sections 4(i), 4(j), 303 and 307 of the Communications Act of 1934, as amended.

10. Accordingly, it is ordered, That § 1.571 of the Commission's rules is amended as set forth below effective July 19, 1968.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: July 17, 1968.

Released: July 18, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,³²

[SEAL] BEN F. WAPLE,
Secretary.

In § 1.571, the present note is redesignated as Note 1 and a new Note 2 added to read as follows:

§ 1.571 Processing of standard broadcast applications.

NOTE 1: * * *

NOTE 2: Pending the Commission's re-study of the rules pertaining to allocation of standard broadcast facilities, requests for authorizations will be considered as set forth in paragraphs (a) and (b) of this note, notwithstanding any provisions of this chapter to the contrary.

(a) Applications for new standard broadcast stations or for major changes in the facilities of existing stations, if otherwise acceptable under Commission rules, will be accepted for filing only in the following categories:

(1) Applications mutually exclusive with the renewal of license applications of existing stations.

(2) Applications, filed timely in response to an appropriate cutoff notice, which involve a direct conflict necessitating a hearing with applications tendered for filing on or before July 19, 1968, and subsequently accepted for filing.

(3) Applications for major changes necessitated by causes beyond the control of an applicant, such as loss of a transmitter site, etc.

(4) Applications by existing Class IV stations which have previously been precluded from increasing daytime power by the existing United States-Mexican Standard

Broadcast Agreement, but which may be permitted such increase under provisions of a new agreement.

(b) Applications now pending and those accepted under (a), above, will be processed and acted upon under rules in force prior to the effective date of this note. Those tendered for filing after July 19, 1968, which do not meet the interim criteria, will be returned.

[F.R. Doc. 68-8732; Filed, July 18, 1968; 11:41 a.m.]

[Docket No. 17791; FCC 68-445]

**MISCELLANEOUS AMENDMENTS TO
CHAPTER**

Report and order. In the matter of adoption of FCC Form 402-A on which to file annual reports by licensees of microwave and other fixed stations when such facilities are shared on a cooperative, cost-sharing basis with others; amendment of §§ 87.467(h), 89.14(h), 91.9(h), and 93.4(h), of the Commission's rules to require the use of FCC Form 402-A in filing the annual report prescribed therein; Docket No. 17791.

1. On October 9, 1967, the Commission issued its notice of proposed rule making in the above-entitled proceeding which was duly published in the *FEDERAL REGISTER* (32 F.R. 14161). In that notice, it was proposed to adopt FCC Form 402-A, and to amend §§ 87.467(h), 89.14(h), 91.9(h), and 93.4(h) of the Commission's rules to require licensees of microwave and other fixed stations which are shared with others on a cooperative, cost-sharing basis to file on that form the annual report required by these rules.

2. Comments were filed by the Special Industrial Radio Service Association, Inc. (SIRSA); the National Committee for Utilities Radio (NCUR); the Central Committee on Communication Facilities of the American Petroleum Institute (Central Committee); and Union Oil Company of California (Union Oil).

3. As was pointed out in the notice, the purpose of FCC Form 402-A³ is to give licensees guidelines as to the minimum information required to be filed by the Commission's rules and to provide a vehicle for supplying that information in a consistent and uniform manner. The reports submitted by licensees in the past, relying on the requirements of the rule sections we propose to amend, have provided insufficient information and the formats have varied so widely that meaningful comparisons and conclusions have been difficult.

4. The comments urged that we either not adopt the proposed form or that we modify it considerably. NCUR argued that the information to be supplied on the form would impose "onerous" and "unnecessary" reporting burdens on licensees of shared microwave systems, and Central Committee doubted that any useful purpose would be served by supplying the "extremely" detailed information called for on the form. NCUR suggested that instead of requiring the use of the financial statement contained in

³⁰ *Kessler et al. v. FCC*, 117 U.S. App. D.C. 130, 326 F.2d 673, 1 RR 2d 2061 (1963).

³¹ 47 CFR 73.24(b), 73.37.

³² Commissioner Wadsworth abstaining from voting.

³ Form filed as part of the original document.

the form, each licensee should be permitted to file the financial statement required by the rules using his own format based on his own accounting system, and Central Committee suggested that we should only require licensees to state the "gross" amount of the annual cost of the shared microwave facilities. SIRSA stated that its members share control and repeater stations in the 952-960 Mc/s band which is a minor part of a licensee's total operation and that details with respect to the cost of operating the shared control and repeater system should not be required.

5. We do not believe that the burden of completing this form would be "onerous", nor that the information asked is so "extremely" detailed. The form calls for the names of those who share the system, the method agreed upon by the parties for allocating space on the system to each sharer, a summary of the elements of the annual cost estimate on which contributions by each sharer are based, and the amount contributed by each sharer toward the annual operating costs and/or toward reimbursement of the initial investment. Our rules have always required this information, although not in this exact format. Certainly, data such as we are requiring must have been considered in some manner by licensees in determining the charges to be imposed on those who share their system. The form adopted here merely provides the vehicle for furnishing this type of information for the convenience of both the licensee and the Commission. We realize there are differences in accounting which may cause some initial difficulties, but believe these will lessen or vanish once the form has been used.

6. Nor are we saying, as both NCUR and SIRSA have implied, that a licensee must take into account all of the elements listed on the form in determining his cost of operating the system. Thus, for example, as SIRSA suggested, if the maintenance of the system is performed under contract by a third party, that expense should be substituted for the salaries of maintenance employees and other maintenance employee costs listed on the form. By the same token, items taken into account by a licensee in determining his costs which are not listed on the form should be, of course, written in.

7. The comments have also argued that it would be difficult to estimate the proportional use of the system by each sharer and to relate his proportionate contribution to the cost to his proportionate share of the system. But licensees and those who share their systems must have arrived at some cost-sharing formula, because, under our rules, each sharer may not be charged any more than his pro rata share of the costs of the system. The form simply requires that this formula be stated. Thus, for example, if a sharer is using exclusively two discrete channels in a 10-channel system, this sharer should not normally be charged more than 20 percent of the system's costs.

8. Union Oil stated that it now files a separate annual statement for each station in its system shared by others and seems to have concluded that, by requiring the use of FCC Form 402-A, it would be required to file a consolidated report on this form which, according to Union Oil, would not be practical. This result was not intended. Although the report should be consolidated as much as possible, separate reports for each station shared would be acceptable.

9. Central Committee requested clarification of the question in item 2(c) on the form which reads: "How were facilities used by licensee and other persons sharing the facilities." This is intended to elicit the information required by paragraph (h) (3) in §§ 87.467, 89.141, 91.9, and 93.4 which calls for a brief statement as to the use of the facilities made by each person sharing a system. Thus, appropriate answers would include, "control circuit in pipeline system," "voice circuits in tree logging operations," etc. A similar explanation has been included in the form.

10. Thus, nothing offered in the comments persuades us that the use of FCC Form 402-A would be unduly burdensome. On the other hand, although initially some licensees may be required to keep somewhat more detailed records than they may have been keeping in order to supply the information requested on the form, those records are required by the rules and the items listed on the form should provide the guidelines for some uniformity in record-keeping and reporting which we believe to be desirable for the proper regulation of cooperative sharing of private microwave systems.

11. Accordingly, it is ordered, Pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, that, effective August 19, 1968, (a) FCC Form 402-A is adopted; and (b) §§ 1.922, 87.467(h), 89.14(h), 91.9(h), and 93.4(h) of the Commission's rules are amended, as shown below.

12. It is further ordered, That this proceeding is terminated.

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

Adopted: April 24, 1968.

Released: July 15, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,

Secretary.

Parts 1, 87, 89, 91, and 93 of the Commission's rules are amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. Section 1.922 is amended to insert, in proper numerical position (after Form 402-10), the following:

§ 1.922 Forms to be used.

* Commissioner Loevinger absent.

402-A Annual Report of Licensees of Microwave and Other Fixed Stations When Such Facilities Are Used Cooperatively With Other Persons.

PART 87—AVIATION SERVICES

2. In § 87.467, the introductory text of paragraph (h) is amended to read as follows:

§ 87.467 Cooperative use of operational stations.

(h) Each licensee sharing its facilities under this section on a nonprofit, cost-sharing basis shall file an annual report with the Commission, using FCC Form 402-A, within 90 days of the close of its fiscal year containing:

PART 89—PUBLIC SAFETY RADIO SERVICES

3. In § 89.14, the introductory text of paragraph (h) is amended to read as follows:

§ 89.14 Cooperative use of fixed radio stations.

(h) Each licensee sharing its facilities under this section on a nonprofit, cost-sharing basis shall file an annual report with the Commission, using FCC Form 402-A, within 90 days of the close of its fiscal year containing:

PART 91—INDUSTRIAL RADIO SERVICES

4. In § 91.9, the introductory text of paragraph (h) is amended to read as follows:

§ 91.9 Cooperative use of operational fixed radio stations.

(h) Each licensee sharing its facilities under this section on a nonprofit, cost-sharing basis shall file an annual report with the Commission, using FCC Form 402-A, within 90 days of the close of its fiscal year containing:

PART 93—LAND TRANSPORTATION RADIO SERVICES

5. In § 93.4, the introductory text of paragraph (h) is amended to read as follows:

§ 93.4 Cooperative use of fixed radio stations.

(h) Each licensee sharing its facilities under this section on a nonprofit, cost-sharing basis shall file an annual report with the Commission, using FCC Form 402-A, within 90 days of the close of its fiscal year containing:

[F.F. Doc. 68-8601; Filed, July 18, 1968; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

MAMMOTH CAVE NATIONAL PARK, KY.

Notice of Proposed Rule Making

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916, (39 Stat. 535, as amended; 16 U.S.C. 3), the Act of May 25, 1926 (44 Stat. 635; 16 U.S.C. 404) 245 DM-1 (27 F.R. 6395), National Park Service Order No. 34 (31 F.R. 4255), Regional Director, Southeast Region Order No. 4 (31 F.R. 8135), as amended, § 7.36 of Title 36 of the Code of Federal Regulations is revised as set forth below.

The purpose of this revision is to revoke regulations concerning commercial fishing, size and creel limits, speed, and limitations on load and weight of vehicles, which are no longer necessary because they are covered by regulations contained in parts 2 and 4 of this chapter, and to revise the regulations applicable to cave entries.

Although most of the revisions will remove existing restrictions on the public, the proposed revision of the regulations also introduces some new requirements. Since it is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process, interested persons are invited to submit written comments, suggestions, or objections to the Superintendent, Mammoth Cave National Park, Mammoth Cave, Ky. 42259, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Section 7.36 of Part 7 of the Code of Federal Regulations is hereby revised to read as follows:

§ 7.36 Mammoth Cave National Park.

(a) *Fishing*—(1) *General*. (i) Fishing is permitted only with pole and line, rod and reel, and trot and throw lines, unless provided otherwise in this section.

(ii) Trot and throw lines shall contain hooks which are spaced at least 30 inches apart.

(2) *Seines*. (i) The use of seines is permitted only in the following runs and creeks to catch minnows and crawfish for bait: Bylew, First, Second, Pine, Big Hollow, Buffalo, Ugly, Cub, Blowing Springs, Floating Mill Branch, Dry Branch, and Mill Branch.

(ii) Seines shall not exceed 4 x 6 feet and the mesh shall not be larger than one-quarter inch.

(3) *Live bait*. (i) Worms are the only form of live bait which may be used in the Sloans Crossing Pond (also known as Beaver Pond), Green Pond, Doyle

Pond, and First Creek Lake. Live minnows and worms may be used in all other waters.

(b) *Cave entry*. Except for those portions of the caves open to the general public, no person shall enter any cave within the boundaries of the park without first obtaining a permit from the Superintendent. Permits will be issued to persons who are qualified and experienced in cave exploration, who possess the needed equipment for safe entry and travel, and who are engaged in scientific research projects which in the opinion of the Superintendent are compatible with the purpose for which the park was established.

WILLIAM E. EDWARDS, Jr.,
Acting Superintendent,
Mammoth Cave National Park.

[F.R. Doc. 68-8588; Filed, July 18, 1968;
8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1030, 1047, 1049]

[Docket Nos. AO-319-A14, AO-33-A39,
AO-361-A1]

MILK IN INDIANAPOLIS, IND., FORT WAYNE, IND., AND CHICAGO REGIONAL MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

Correction

In F.R. Doc. 68-8340 appearing at page 10104 in the issue of Saturday, July 13, 1968, the following should be inserted between the eighth and ninth lines of the first paragraph: "to be held at Stouffer's Indianapolis Inn."

[7 CFR Part 1202]

[Docket No. AO-365]

FLUE-CURED TOBACCO

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Marketing Agreement and Order

Pursuant to the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) under provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), hereinafter referred to as the "act," notice is hereby given of the filing with the Hearing Clerk, U.S. Department of Agriculture, of this recommended decision of the De-

partment with respect to a proposed marketing agreement and order (hereinafter at times referred to collectively as the "order") regulating the handling of flue-cured tobacco.

Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. To be considered, exceptions must be filed not later than August 9, 1968. They should be filed in quadruplicate. All such communications will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. A public hearing was held in Greenville, N.C., on February 26 and 27; Greensboro, N.C., on February 28 and 29; South Boston, Va., March 1; Live Oak, Fla., March 4; Douglas, Ga., March 6; and Florence, S.C., on March 8, to consider a proposed order regulating the handling of flue-cured tobacco. Notice thereof was published in the FEDERAL REGISTER on February 10, 1968 (33 F.R. 2850). The notice and the hearing were pursuant to a proposal submitted by the State Granges of North Carolina, South Carolina, and Virginia, and the North Carolina Association of Farmer-Elected Committeemen that the handling of flue-cured tobacco be regulated under a marketing order program, and a request that the Department hold a hearing on such a proposed program.

Material issues. The material issues presented on the record of the hearing relate to:

1. Whether the handling of flue-cured tobacco produced in the production area is in the current of interstate or foreign commerce, or directly burdens, obstructs or affects interstate or foreign commerce in flue-cured tobacco and its products;

2. Whether economic and marketing conditions justify the need for regulation and the issuance of a marketing agreement and order regulating the handling of flue-cured tobacco to effectuate the declared policy of the act; and

3. What specific terms and provisions should be included in any marketing agreement and order that might be issued, including:

(a) Definitions of the commodity, the production area, the persons to be regulated, and other terms applicable to the provisions of the proposed program;

(b) The establishment, maintenance, powers, and duties of the Flue-Cured Tobacco Administrative Committee, which shall be the administrative agency for assisting the Secretary in administration of the program;

(c) The authority for the Committee to incur expenses and for the Secretary to levy assessments on handlers;

(d) The regulatory provisions of the order for limiting the flow of flue-cured

tobacco from the farm to the auction warehouse; and

(e) Miscellaneous provisions set forth in the notice of hearing as §§ 1202.70 through 1202.87.

The issues covered in subparagraphs (a) through (e) are an elaboration of issue number 3 as specified in the partial recommended decision of April 17, 1968 (33 F.R. 6125) which contained findings and conclusions on the other issues presented on the record of the hearing.

Findings and conclusions. This recommended decision and the findings and conclusions herein relate only to issue number 3. Material issues numbered 1 and 2 were covered by the separate partial recommended decision of April 17, 1968 (33 F.R. 6125).

It was concluded on the basis of findings contained in the partial recommended decision that the hearing should be reopened some time after the 1968 selling season is well under way to receive factual evidence on whether marketing conditions are orderly or whether they continue to be disorderly enough to justify the need for regulation and the issuance of a marketing agreement and order for flue-cured tobacco. It was also concluded that it would be desirable if interested parties had a substantial period of time to analyze in detail the specific terms and provisions of a marketing agreement and order that might be appropriate if it is later concluded that a need exists for such a program. Accordingly, findings and conclusions are herein set forth on what specific terms and provisions should be included in any marketing agreement and order that might be issued.

The following findings and conclusions are based on the evidence adduced at the hearing and the record thereof:

The recommended marketing agreement and order program should employ or utilize the following as a means for regulating the orderly flow of flue-cured tobacco from farm to market:

(1) The order should apply to all flue-cured tobacco grown in the entire six State area in which such tobacco is produced—Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia.

(2) The six State production area should be divided into five prorate districts (conforming to the traditional type marketing belts) for purposes of the order.

(3) The order should be administered by an Administrative Committee composed of 14 members. Ten of these should be growers, with two growers from each of the five prorate districts. The other four members should represent (a) handlers (auction warehousemen), (b) dealers, (c) domestic manufacturers, and (d) the Flue-Cured Tobacco Cooperative Stabilization Corporation.

(4) Based on recommendations of the Administrative Committee, or other information, the Secretary should:

(a) Establish an overall quantity which may be marketed by all growers

in all prorate districts during a particular week, to be known as the Salable Quantity;

(b) Allocate this overall Salable Quantity to the various prorate districts in the form of Marketable Quantities, based on current conditions in each district;

(c) As specified in (d), allocate a district's Marketable Quantity to individual growers in the form of Marketable Allotments. The Marketable Allotment should be the maximum pounds of tobacco which may be handled for any grower during such week, except that:

(i) Growers should be allowed to carry forward unused portions of their Marketable Allotments from prior weeks;

(ii) A small tolerance should be allowed for over marketing by individual growers, to be deducted from their next week's Marketable Allotments; and

(iii) A minimum Marketable Allotment of 400 pounds should be provided for growers with small acreages; and

(d) Each grower's Marketable Allotment should be a percentage of his current Base Quantity (110 percent of his quota under the USDA Acreage-Poundage Marketing Quota Program). This percentage should be the Uniform Percentage for a prorate district; and producers, and warehousemen and other handlers would need only to multiply a grower's Base Quantity by the Uniform Percentage to get the amount of tobacco which could be handled that week on behalf of the producer. The Uniform Percentage for a week may be different for each prorate district.

(e) Make necessary provision for marketing tobacco subject to statutory penalties under the USDA Acreage-Poundage Marketing Quota Program.

This decision also recommends that the handling of tobacco grown in a particular prorate district be prohibited prior to, or during, such times in the selling season as are deemed advisable by the Administrative Committee and approved by the Secretary.

The findings and conclusions on specific terms and provisions are discussed in the following sequence:

- A. Definitions.
- B. Administrative Committee.
- C. Expenses, Assessments, and Accounting.
- D. Regulation.
- E. Miscellaneous Provisions.

3. **Specific terms and provisions.** Certain terms applying to specific individuals, agencies, legislation, concepts, or things, are used throughout the order. These terms should be defined for the purpose of designating specifically their applicability and establishing appropriate limitations on their respective meanings whenever they are used.

A. **Definitions.** "Department" should be defined to mean the U.S. Department of Agriculture. As indicated later, the Secretary of the Department is charged under the act with the responsibility for general supervision and operation of regulatory programs of this nature. This definition would provide a ready reference to that Department of the Federal

Government which is assigned responsibility for agricultural programs of this sort.

"Secretary" should be defined to mean not only the Secretary of the Department but also, in recognition of the fact that it is physically impossible for him to perform personally all of the functions and duties imposed upon him by law, any other officer or employee of the Department who is, or who may hereafter be, authorized to act in his stead. The Secretary is charged under the act with the responsibility for general supervision and operation of regulatory programs of this nature. So that his functions may be expeditiously discharged at any and all times, he must, on occasions, authorize other appropriate employees of the Department to act in his stead. Hence, they should be covered under the term when acting in the authorized capacity.

"Act" should be defined to provide a ready and correct legal citation for the statute pursuant to which the order is to be operative. Thereafter, repetition of the full and complete citation is unnecessary when the word "act" is used.

"Person" should be defined as in section 8a(9) of the act (7 U.S.C. 608a(9)). The term "person" should have the same meaning when used in the order as when it is used in the act. The term "person" is used, for example, in the definitions of "producer" and "handler" and helps to determine clearly what is meant by a business unit, whether such unit be a producer or handler.

"Flue-cured tobacco" should be defined to cover all tobacco classified as Class 1 flue-cured types (Types 11, 12, 13, and 14) under the classification of leaf tobacco covering classes, types, and groups of grades in the Department's Service and Regulatory Announcement 118 (7 CFR Part 30). There should not be any misunderstanding of this term since marketing quotas have been in effect for flue-cured tobacco for many years under the Marketing Quota Program and growers have acreage allotments and poundage quotas for such tobacco.

"Production area" should be defined to identify the entire area in which flue-cured tobacco is produced in the States of Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia. These six contiguous States form a production area that traditionally is divided into five marketing belts. It is necessary to regulate the entire area, as a smaller area is not practical for application of the order consistent with carrying out the declared policy of the act. This is so because the same kind of tobacco is produced throughout the area under similar conditions and similar cultural practices. Record evidence shows that there is substantial movement of flue-cured tobacco across State lines and across marketing belts as the tobacco moves from farms to auction markets. This occurs because tobacco grown throughout the area can be sold in all markets and all of it moves into the same processing channels. Also,

a definite relationship exists in the pricing of flue-cured tobacco throughout the production area. All of the tobacco produced is inextricably intermingled in processing and manufacturing into products. Moreover, if any part of the producing area was excluded, the tobacco grown therein could be handled free from order restrictions and adversely affect the handling of flue-cured tobacco that was subject to regulation.

"Grower" and "producer" should be deemed synonymous and defined to mean any person who is engaged in the production area in a proprietary capacity in the commercial production of flue-cured tobacco and who shares in the ownership of flue-cured tobacco produced on a given farm. A grower should be the person who produces the flue-cured tobacco and has a proprietary interest therein. In sharecropping or landlord-tenant arrangements, each person receiving a share of the crop would be a producer. A cash renter of flue-cured tobacco acreage who produces tobacco thereon and has the full right of disposition of the crop would be the producer. Thus, a landlord of a standing rent, cash rent, or fixed rent tenant, should not be considered a producer for purposes of the order, because he does not share in the ownership of the tobacco produced on the farm. A definition of the terms "grower" and "producer" is necessary for determinations such as eligibility to vote for nominees and serve as producer members or alternate members of the Administrative Committee. Also, determinations will be made as to the respective Base Quantities for producers and Marketable Allotments based thereon.

"Auction market" should be defined as a market center where tobacco auction warehouses are located and which has been designated as a tobacco auction market pursuant to the Tobacco Inspection Act (7 U.S.C. 511 et seq.). Also, any other location at which flue-cured tobacco received from growers is sold at auction. Such term is used in the order in connection with marketing policy determinations and recommendations by the Administrative Committee for regulation.

"Sale" should be defined as a combination of auction warehouse personnel and buying personnel engaged in selling and buying tobacco at auction on an auction market. Such term is used for example in the provisions of the order dealing with Committee recommendations for volume regulations.

"Handle" should be defined as to sell at auction on behalf of a producer flue-cured tobacco received from such producer, or to purchase, other than at auction, flue-cured tobacco from the producer thereof. In recognition of the fact that flue-cured tobacco is at times pledged by producers for loan pursuant to the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.), and is considered for all intents and purposes as having been marketed by them, such pledged tobacco should be considered as having been sold on behalf of the pro-

ducers. The definition of the term handle should, therefore, also cover this situation.

"Handler" should be defined to mean any person who handles flue-cured tobacco. This definition should include auction warehousemen engaged in receiving and selling flue-cured tobacco of producers at auction. In the case of a nonauction or private sale of a producer's tobacco, the purchaser should be designated as the handler. The definition as hereinafter set forth would serve to identify the persons who are subject to the order and regulations thereunder and who are required to comply therewith.

"Tobacco Marketing Card" should mean the Tobacco Marketing Card (Form MQ-76 (Flue)) issued to flue-cured tobacco producers by the Agricultural Stabilization and Conservation Service of the Department, pursuant to the Marketing Quota Program, which indicates a marketing quota for a particular producer and marketing year. This card identifies the producer, the county in which his farm is located, the farm number, and other identifying information. It also shows two amounts pertaining to his marketing quota, namely, 10 percent of quota and 110 percent of quota. It provides spaces for recording the balance of flue-cured tobacco which the producer may market without penalty under the Marketing Quota Program. This term is used in regulatory provisions of the order.

"Tobacco Order Card" should mean a card, or such other form, as may be approved by the Administrative Committee for producers and which would provide appropriate spaces for identifying and recording such information as the producer's Base Quantity, Uniform Percentage, and amounts of tobacco handled under the order. Such a card would serve, not only to inform handlers of permissible quantities of tobacco available for handling, but also as a means of ascertaining compliance with the regulatory program.

"Administrative Committee" should be defined to mean the administrative body established pursuant to the order to administer the order in accordance with its terms and provisions, as authorized by the act. The name of the committee would be reflective of its nature.

"Marketing year" should mean the 12-month period beginning April 1 through March of the following year. If the order should become effective after April 1, provisions should be included that the first marketing year would begin with the effective date of the order, but would still end the following March 31. A 12-month period is specified as a marketing year and is necessary for operating the order and for accounting purposes. The marketing year should begin on April 1 in order to provide a sufficient period of time for the Administrative Committee to organize, develop marketing policies, and prepare for the selling season which begins the latter part of July. It would also provide sufficient time after the end of the selling season to

close out the operations for the yearly period. Also, it would serve as the fiscal period for such operations and for the levying of assessments.

"Dealer" should be defined to mean any person who is engaged in the business of purchasing flue-cured tobacco and processing flue-cured tobacco for storage and sale in leaf form. It is necessary to define this term because dealers are to be represented on the Administrative Committee. Also, dealers are involved in the marketing process.

"Domestic manufacturer" should be defined to mean any person who is engaged in the business of purchasing flue-cured tobacco and manufacturing tobacco products therefrom. This term needs to be defined because such manufacturers are to be represented on the Administrative Committee.

"Salable Quantity" should be defined to mean the desirable total quantity of flue-cured tobacco, as hereinafter discussed, which should be handled from all prorate districts in the production area during a specified period of the selling season. Such term is used in the provisions of the order for purposes of volume regulation that may be recommended by the Committee and established by the Secretary.

"Marketable Quantity" should mean the desirable aggregate amount of flue-cured tobacco, as hereinafter discussed, grown in a particular prorate district which may be handled during a specified period of the selling season. Each Salable Quantity would, under the program, be apportioned to prorate districts in the form of Marketable Quantities.

"Marketable Allotment" should mean the pounds of flue-cured tobacco of a particular grower in a specified prorate district that may be marketed in a specified period of the selling season. The Marketable Allotment for a producer would be determined by multiplying his Base Quantity by the applicable Uniform Percentage. The Marketable Allotment is a poundage breakdown of the Marketable Quantity in each prorate district to the producers within the district. When used in the order, the term Marketable Allotment should include any portion of the tobacco covered by a producer's Marketable Allotment that remains to be marketed.

"Base Quantity" should be defined in terms of the sum of the quantities set forth as "110 percent of quota" for a producer on all of his Tobacco Marketing Cards for flue-cured tobacco produced within a particular prorate district. The figure of 110 percent is used because it represents the maximum amount of flue-cured tobacco which a producer may market during a year without penalty under the Marketing Quota Program. In this connection, the record shows that very few, if any, producers market tobacco in excess of the penalty-free amount during a marketing year.

"Uniform Percentage" should be defined to mean the percentage that the Secretary fixes under the order for a specified period of a selling season to be applicable to the Base Quantities of all

growers in a particular prorate district for determining their Marketable Allotments for such period. The Uniform Percentage should be fixed by the Secretary, on the basis of the recommendation of the Administrative Committee. As provided in the order, such recommendation is to be made by the Committee together with its recommendation for volume regulation. The Uniform Percentage during a selling season should afford producers within the same prorate district equitable marketing opportunities within that district.

"Marketing Quota Program" should mean the Flue-Cured Tobacco Acreage-Poundage Program under authority of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), that is in effect during the then current selling season. The purpose of this definition is to identify the program referred to in the order.

"Selling season" should mean the portion of the marketing year, as hereinafter discussed, during which flue-cured tobacco is handled. Various periods in the selling season are considered in connection with recommendations for, and establishment of, volume regulations.

"Part" should be defined to mean the order regulating the handling of flue-cured tobacco, and all rules, regulations, and supplementary orders issued thereunder. The order itself should constitute a "subpart" of such part. The purpose of this definition is to provide a ready reference to Title 7 of the Code of Federal Regulations, Part 1202, which is the codification to be used in the event the order becomes operative.

B. Administrative Committee. An agency should be established for purposes of administering the order. As heretofore indicated, the agency should be identified as the Administrative Committee. So that all segments of the flue-cured tobacco industry may be represented, the Administrative Committee should consist of individuals representing producers, the Flue-Cured Tobacco Cooperative Stabilization Corporation, handlers, dealers, and domestic manufacturers. On the basis hereinafter discussed, the Committee should be sufficiently representative so as to obtain a cross section of ideas in its deliberations, but not so large as to be unwieldy and cumbersome. Thus, a 14-member committee, for each of whom there should be an alternate, to administer the program should be adequate and of optimum size.

As discussed later, the production area should be divided into five prorate districts for purposes of administration of the order. There are approximately 300,000 producers in the production area. To assure that all producers will be represented fairly on the Administrative Committee, each prorate district should be represented by two members who are producers in that district. Thus producers would be represented by 10 members on the Administrative Committee, constituting a little more than 70 percent of the total membership. This is deemed fair because of the large number of producers in comparison with handlers

and other industry segments. Furthermore, since the program would authorize a means of limiting the quantity of flue-cured tobacco which handlers may purchase from, or sell on behalf of, producers during any given period or periods during a selling season, producers should be given the greatest voice in recommending establishment, for example, of Salable Quantities, Marketable Quantities, and Uniform Percentages.

In order to further assure growers an equitable geographic representation on the Administrative Committee, the order should further provide for subdividing each prorate district into two election subdistricts. Because of the large number of producers in each prorate district, creating such election subdistricts should facilitate the nomination and election of grower nominees and insure that the nominee from an election subdistrict will be elected by the growers he is to represent. It should result in greater participation by growers in the selection of the nominee to represent them on the Committee, and in turn, the Committee member being more closely attuned to the thinking of the growers he represents.

Also, whenever a prorate district covers more than one State, each of its election subdistricts should include only the producers within an individual State. For example, in the case of Prorate District 13, the counties of North Carolina would comprise one election subdistrict and those of South Carolina would comprise another election subdistrict. In the case of Prorate District 14, this principle could be maintained by combining the counties of Alabama and Georgia into one election subdistrict and those in Florida as the other subdistrict. Although there are considerably more growers in Georgia than in Florida, Alabama is more closely aligned geographically with Georgia. Also, Alabama growers market most of their tobacco on Georgia markets. Whenever a prorate district lies entirely within one State, the counties in that district should also be grouped into two election subdistricts for the same reasons. The counties should be grouped according to the general maturity of the crop, general interest and logical geographic division of the prorate district, as well as consideration of the number of growers in each subdistrict. The counties to be included in each subdistrict are set forth in the order.

In order to provide needed flexibility, the Secretary, upon recommendation of the Committee or other available information, should have authority to revise the composition of the election subdistricts within a prorate district so as to tend to achieve equitable representation for the growers in the prorate district.

The grower members of the Administrative Committee should not be handlers, dealers, or manufacturers, or officers or employees of handlers, dealers, or manufacturers. The reason for such restriction is that those who are to speak for producers on a Committee should

think and act only as producers. This in no way is intended to reflect on handlers, dealers, and manufacturers in the flue-cured tobacco industry, but their viewpoints and interests may not always be consistent with producers' thinking.

The remaining four member positions on the Administrative Committee should be divided equally among the Cooperative, handlers, dealers, and domestic manufacturers. These encompass the major nonproducer segments of the industry.

One member of the Committee should be the manager or other managerial employee of the Flue-Cured Tobacco Cooperative Stabilization Corporation (herein referred to as "the Cooperative"). This is the only agency designated by the Department to handle price support loans throughout the flue-cured area. The Cooperative has broad experience in dealing with growers, warehousemen, and redryers, and this background knowledge should be invaluable in the administration of this program. During the 1967 marketing season, the Cooperative received for price support loans approximately 282 million pounds of flue-cured tobacco. The Cooperative's representative should be the manager, or a member of his staff, and not a member of its Board of Directors. Such managerial personnel would generally be more familiar with policies and operations of the Cooperative, and thus, qualified to represent the Cooperative on the Committee and make his experience available in connection with Committee deliberations. Because the Cooperative's Board of Directors is composed of growers, such growers would be eligible to serve on the Administrative Committee representing growers in their election subdistricts.

One member of the Committee should represent handlers. Since many handlers are corporations who have joined an association of handlers, the order should provide that such member shall be an individual who is a handler, an officer or employee of a handler, or an officer of an association of handlers.

Dealers, that is, persons engaged in the business of purchasing flue-cured tobacco and processing flue-cured tobacco for storage and sale in leaf form, should have one member representative on the Committee. As in the case of handlers, dealers may also be corporations or have formed an association of dealers. Therefore, the order should provide that the dealer member shall be an individual who is a dealer, an officer or employee of a dealer, or an officer of an association of dealers.

Domestic manufacturers, that is, those engaged in the business of purchasing flue-cured tobacco and manufacturing tobacco products therefrom should also have one representative on the Committee. The order should also provide that this member be an individual who is a domestic manufacturer or an officer or employee of a domestic manufacturer.

The order should specifically provide that there be an alternate for each member of the Committee, that the alternate should have the same qualifications as

the member, and, unless otherwise specified, all provisions applicable to a member should also be applicable to his alternate. In the case of grower members, the alternate should come from the same election subdistrict as the member.

Except for the initial marketing year, the members of the Committee should serve for 2 consecutive marketing years. Since the marketing year would begin on April 1, terms of office should begin on April 1 and end 2 years later on March 31. However, with respect to the initial membership of the Committee, their terms should begin with the effective date of the order if it becomes operative. Furthermore, the order should provide that the terms of office of one-half of the membership should expire at the end of the initial marketing year. With respect to the grower members, one of these should be allocated to each prorate district. With respect to the other segments of the trade, the terms of office of the dealer member and the handler member should also expire at the end of the initial marketing year. Upon expiration of these terms of office, the successors would serve for 2 consecutive marketing years. This arrangement would stagger the terms of members and insure that at least one-half of the membership have experience serving on the Committee.

The Committee members should serve for the terms of office for which they are selected and have qualified. As indicated later, "qualify" means that a member files a written acceptance with the Secretary of his willingness to serve. If no successor has been selected and has qualified, it should be provided that the incumbent is to serve until his successor has been selected and has qualified. This would assure that all segments of the trade continue to be represented on the Committee, thereby enabling the Committee to carry out its functions at all times.

Provisions should be included for growers in each election subdistrict to nominate persons to represent them on the Committee as member and alternate. Since the terms of office would begin on April 1, nominations should be certified and submitted by the Committee to the Secretary not later than March 1 so the selection action can be completed prior to April 1. There should be one nominee for each member position and one nominee for each alternate member position.

Nominees for grower membership should be elected at an open meeting of growers in each election subdistrict. The Committee should hold, and give reasonable advance publicity to, such nomination meetings. For the purpose of obtaining the initial nominees, the Secretary should perform the functions of the Committee since there would be no Committee membership in existence for such purpose. The nomination and election of nominee selections should be made at the meeting, with separate nominations and voting for the nominees for member and alternate positions. The eligible person receiving the

highest number of votes for a member or alternate position should be the nominee for that position. Only persons who are producers in the election subdistrict may participate in electing the nominees from such district. For voting purposes, producers who are also handlers, dealers, or domestic manufacturers, or their employees, should be eligible to participate in elections.

As shown by the record it is not necessary to prescribe specific procedures in the order for selecting nominees for the Committee membership for nongrower representatives, namely, handlers, the Flue-Cured Tobacco Cooperative Stabilization Corporation, dealers and domestic manufacturers. Accordingly, nominees for these groups should be selected in the manner desired through the organizational channels of the respective groups. However, in the event the Committee determines that any nominating procedure used does not result in equitable representation, it should have the authority with the prior approval of the Secretary to make such modifications in the procedure as will tend to assure equitable representation. This will provide needed flexibility in the event conditions change or changes occur in the organizational structure of the nongrower segments of the industry.

Committee members should be appointed by the Secretary in accordance with procedures prescribed in detail in the order. Those procedures should call for the Committee to certify to the Secretary the names of the individuals nominated by the various segments of the trade. If, for any reason, the Committee does not submit nominees to the Secretary by March 1, he should have the authority to select other qualified persons for the positions without waiting further for nominations. This would be a safeguard to permit selection by the Secretary in instances where Committee action is not taken or reasonably promptly completed. Provisions should be included that if the Secretary declines to appoint a nominee certified by the Committee, he should request another nominee at least once before selecting someone himself from among other eligible persons. It should be provided that each appointee should show his willingness to serve on the Committee by filing a written acceptance with the Secretary. This acceptance should be filed prior to assuming duties as a member or alternate as the case may be of the Committee. This would allow the Secretary to know from the written acceptance that the particular position on the Committee had been filled and that no further selection is necessary.

It should be provided that an alternate member should act in the place and stead of the member for whom he is an alternate during such member's absence. For example, the alternate may serve at a meeting when the member cannot attend the meeting, or vote by mail, telephone, or telegraph when the member is not available to vote by those means. The alternate would also serve in the event a vacancy on the Committee

is created by the member's death, removal for cause, resignation, or disqualification. In the event of such vacancy, the order should provide that the alternate shall act for a member until a successor of such member has been selected and has qualified. In other words, the alternate should not succeed automatically to the position of the member; instead, he should continue as alternate unless selected by the Secretary to be the member. The order should also provide that alternate members shall also perform such other duties as may be assigned by the Committee. For example, the Committee may want an alternate to serve on a subcommittee to utilize some particular skill or knowledge which the alternate may possess.

In order to fill any vacancy occasioned by the failure of a nominee certified by the Committee to qualify, or in the event of the death, removal for cause, resignation, or disqualification of any member of the Committee, a successor for the unexpired term of such member should be nominated and selected in the same manner as specified for the position. Moreover, if the name of a nominee to fill any such vacancy is not made available to the Secretary within 40 days after such vacancy occurs, the Secretary should be authorized to fill any such vacancy without waiting further for nominations. Thus, the Secretary would know within a reasonable time as to the particular action to be taken in selecting the successor.

Members and alternate members of the Committee should serve without compensation, but should receive such reasonable allowances for necessary expenses incurred in connection with their duties as may be approved by the Committee. The purpose of this provision is to reimburse members, and alternates when acting in the place and stead of members or when performing such other duties as may be assigned by the Committee, for necessary travel expenses and for reasonable costs of any meals and lodging incurred while attending Committee meetings or engaged on Committee business. Members and alternates should be sufficiently industry minded to serve without compensation.

The act lists four powers which an administrative committee or agency may have under a marketing order program of the nature here involved. These include the power to administer the order; to make rules and regulations to effectuate its terms and conditions; to receive, investigate, and report to the Secretary complaints of violations; and to recommend amendments to the Secretary. These powers should be set forth in the order along with the duties of the Committee. All of these powers should be vested in the Committee under this program to enable it to more fully perform its duties.

The order should set forth the duties of the Committee which will permit it to function efficiently and enable the Secretary and the Committee to administer the program. Hence, the Committee should select from among its membership a chairman and such other officers as

may be necessary and define the duties of such officers and adopt such rules and regulations for the conduct of its business as it may deem advisable. It is visualized that the Committee would elect a chairman, a vice chairman, a secretary, and a treasurer.

The Committee should also be authorized to appoint or employ such other persons as may be necessary and determine the salaries and define the duties of such persons. This would enable the Committee to employ a manager and necessary professional and clerical help.

The Committee should keep such minutes, books, and other records as will clearly reflect all of the acts and transactions of the Committee, and be subject to examination at any time by the Secretary.

At least once each marketing year and at such other times as the Committee may deem necessary or as the Secretary may request, the books and other records of the Committee should be audited by a public accountant. The records of each such audit should show, among other things, the receipts and expenditures of funds collected under this program. Two copies of each such audit report should be furnished to the Secretary. After elimination of confidential data, a copy of the audit report should be made available for inspection in the office of the Committee by producers, handlers, and any other interested person.

The Committee should prepare periodic statements of its financial operations and make copies of each such statement available to growers, handlers, and others for examination at its office. It should submit a copy of those statements to the Secretary. The term "periodic" could mean monthly, quarterly, or as regularly as the Committee and the Secretary consider necessary.

The Committee should act as intermediary between the Secretary and any grower, handler, dealer, manufacturer, or other interested person. Since the Committee is the administrative agency under the order, it would be in a position to handle most problems connected with program administration; and the industry should not need to go to the Secretary on questions that can be handled by the Committee. However, this is not intended to preclude any person going directly to the Secretary should he so desire.

An important duty of the Committee should be to investigate, assemble data and analyze market conditions, including the handling of flue-cured tobacco, and to make recommendations to the Secretary concerning the movement of flue-cured tobacco to market during the current marketing year. Such information and data would, among other things, be essential to the Committee and the Secretary in establishing the marketing policy for a selling season and in establishing and revising the volume regulations for such season, as applicable.

Since the Secretary has overall responsibility for the order, he should be given the same notice of Committee and subcommittee meetings as is given the mem-

bers. Notice of Committee meetings should also be regularly mailed to any interested persons who request such notification.

A major activity of the Committee should be that of investigating compliance with the order and any regulations issued pursuant to the order. Thus, a Committee duty should be to investigate compliance and use means available to prevent violations of the provisions of the order. This would authorize the Committee to notify all handlers of their program obligations, explain program requirements, observe handler operations and activities and investigate any indication of violations.

The order should establish a notice requirement for holding meetings, quorum requirements, and voting at assembled meetings and by mail, telephone, or telegraph. Thus, the order should provide that the Committee may hold meetings only after it gives notice of such meetings to its members. This is to insure that all members and alternates are notified of a pending Committee meeting and will have ample time to make the necessary arrangements in their own operations to attend such meetings.

There may be times when it will be impossible for members or their alternates to attend every meeting. Therefore, the order should include quorum requirements for an assembled meeting. A quorum should consist of 10 members, including alternates acting as members. Moreover, to assure that there be sufficient approval for any Committee action, the order should provide that any action of the Committee shall require at least nine concurring votes. The figure of nine concurring votes is put in to make it essential that at least five grower-members on the Committee favor every action taken.

It should also be recognized that occasions may arise where actions must be taken before a meeting of the Committee can be called, or minor matters may arise which can be handled without the need for an assembled meeting. Thus, the order should authorize the Committee to vote by mail, telephone, or telegraph. However, this method of voting should not be used at an assembled meeting to obtain votes from absent members. When such vote is proposed to be taken, the proposition should be explained accurately, fully, and as identically as possible to all members before a vote is taken, that is, a vote other than at assembled meetings and all votes by telephone should be confirmed promptly in writing. This should be done so that members may vote on basically the same information. The quorum requirement and number of concurring votes should be the same as for an assembled meeting.

C. Expenses, assessments and accounting. The Committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each marketing year for its maintenance and functioning. This provision reiterates the provisions of the act to the effect that the expenses of administration of the marketing order

program are chargeable to and borne by the industry.

The Committee should be required to prepare and submit to the Secretary a budget of its proposed expenses for a marketing year and a proposed rate of assessment, together with a report thereon. This should be accomplished no later than 30 days after the beginning of the marketing year for which the budget and assessment rate are proposed. In order for the Committee to obtain the necessary revenue, the order should provide, as required by the act, that funds to cover such expenses shall be acquired by levying assessments upon handlers.

The Committee should adopt the good business practices of anticipating its expenditures and income and submitting its estimated requirements to the Secretary. Major expenses of the Committee would include salaries for the manager and the management staff, office rent, Committee and management travel expense, telephone and telegraph, postage, stationery, and office equipment. In addition to these, some provisions should be made for unexpected expenses.

The Secretary should review all budgets submitted by the Committee. He decides whether the proposed expenses are reasonable and likely to be incurred. The Committee should arrive at a rate of assessment on the basis of its proposed expenses. The rate of assessment should be fixed by the Secretary at the same time he approves the Committee's expenses.

Consistent with the act, the order should require each handler with respect to the flue-cured tobacco handled by him to pay to the Committee upon demand his pro rata share of the expenses which the Secretary finds will be incurred by the Committee during each marketing year.

Each handler's pro rata share should be the rate of assessment per unit (pounds of flue-cured tobacco) fixed by the Secretary, times the total assessable units (poundage) of tobacco handled by such handler during the marketing year. The handler should not be prohibited from passing the assessment on to the grower. However, if the assessment is passed on by the handler as a part of the marketing fee or charges, the amount should be separately identified on the warehouse bill-of-sale. Of course, such amount should not exceed the assessment applicable to the poundage of the grower's tobacco handled by the handler.

In order to meet expenses of the Committee prior to the time in the marketing year when funds from assessments would be available, the Committee should be authorized to accept advance payment from handlers and to credit such advance payments against assessments subsequently levied against such handlers. So that handlers would not be asked to advance an unreasonable amount, requests for advance payments should not exceed 50 percent of the anticipated total assessments for a marketing year. Additionally, if prepayments or reserve funds are insufficient to meet immediate expenses, the Committee should be empowered to borrow a reasonable amount of funds whenever necessary to keep the

program in operation during the marketing year.

Since handlers would be required to pay their respective pro rata shares of the Committee's expenses, it is necessary that the assessment rate be applied uniformly. Unanticipated expenses may become apparent during or after a crop year, or crop damage or underestimation of the crop could so reduce the assessable tonnage that the budget of expenses could not be met without an increase in the assessment rate. Therefore, the order should provide that at anytime during or after a marketing year the Secretary may increase the rate of assessment to cover unanticipated expenses of the Committee or a deficit in assessable tonnage. Moreover, the order should require each handler to pay such additional assessment to the Committee upon demand. However, it is anticipated that the Committee would recommend reasonably adequate rates so that handlers will not be billed for unexpected costs late in the season.

So as to assure a continuous functioning by the Committee throughout the period in which the order is in effect, provisions should be made that payments of assessments for the maintenance and functioning of the Committee may be required as provided in the act under this program throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

The Committee may find at the end of the marketing year that assessments collected are in excess of expenses incurred. The order should specify the manner of accounting for such excess.

Except when the Committee establishes an operating monetary reserve or upon termination, the order should provide that each handler who has paid assessments in excess of his pro rata share during any marketing year of the expenses should be credited with such excess against his pro rata share of the expenses in the following year. However, there may be circumstances where a handler has an existing financial obligation to the Committee at the end of a marketing year. Therefore, the order should also provide that any sum paid by a handler in excess of his pro rata share of the expenses during any marketing year may be applied by the Committee at the end of such marketing year to any outstanding obligations due the Committee from such handler.

The Committee should be authorized to use excess funds and advance payments to establish and maintain an operating monetary reserve to provide capital for operating expenses, for example, at the beginning of a season and before income from current year's assessments would be received. Therefore, the order should provide that the Committee, with the approval of the Secretary, may establish and maintain during one or more marketing years an operating monetary reserve, consisting of all or any portion of such excess funds, in an amount not to exceed approximately 2 marketing years' operational

expenses. Moreover, funds in the operating monetary reserve should be available for use by the Committee for all expenses authorized pursuant to the applicable provisions of this program. This would permit the fixing of reduced assessments, as well as the use of reserve funds in lieu of increasing an assessment rate, for some marketing years when deemed appropriate.

Upon termination of the order, any funds remaining on hand should be used to pay the expenses of the Committee or joint trustees or both, incurred in connection with liquidation activities. Upon completion of these activities, any funds not required to defray the necessary expenses of liquidation should be disposed of in such manner as the Secretary may determine to be appropriate. However, to the extent practical, such funds should be returned pro rata to the persons from whom the funds were collected.

The order should also provide that all funds received by the Committee pursuant to the provisions of this program should be used solely for the purposes specified and accounted for in the manner provided. The order should also provide that the Secretary may at any time require the Committee and its members to account for all receipts and disbursements. Pursuant to this requirement and consistent with the Committee's duties, it would be necessary for it to see that methods of accounting are followed which provide sufficient record of any transactions made by the Committee. The Committee should at all times be able to explain to the Secretary the need and reason for all transactions and expenditures of the Committee.

The order should also provide that upon expiration of the term of office, removal for cause, resignation, or disqualification of any member or alternate of the Committee, such person shall account for all property and funds under his control or in his possession. Moreover, such member or alternate should deliver all property and funds in his possession to his successor in office and should execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all the property, funds, and claims vested in such member under the program. This should be included in the order to advise all members and alternates of their responsibilities and duties with respect to such funds and property and to assure proper control thereof.

D. Regulation. The order should require the Committee to develop a marketing policy each marketing year prior to the beginning of the selling season so that handlers, producers, and other segments of the industry will have information upon which to plan for the marketing of flue-cured tobacco during that season. Thus, the Committee should prepare and submit to the Secretary its marketing policy prior to the beginning of a flue-cured selling season. The Committee's marketing policy should be predicated on pertinent considerations directly associated with the capabilities of the market to accommodate specified

quantities of tobacco during a given marketing period.

In preparing its marketing policy, the Committee should give consideration to production of flue-cured tobacco in the production area. In developing these production data, the Committee should compile and review such data for at least three immediately preceding marketing years. Such data should be compared with estimated production for the then current marketing year.

The respective dates of the harvesting season for flue-cured tobacco in the various prorated districts of the production area over the past 3 years should be given important consideration by the Committee in developing marketing policies.

The Committee should also review market opening dates for a period of three immediately preceding marketing years; and the amount of tobacco marketed by producers in prorated districts other than their own. This is necessary so as to serve as a basis for evaluating and relating the results of prior marketing years to the potential marketing problems that may relate to the then current marketing year.

Consideration should also be given to weekly marketings of flue-cured tobacco in the entire production area and in each prorated district during three immediately preceding marketing years.

The period of 3 years should ordinarily be a reasonable and adequate period for the foregoing purposes. Of course, the Committee should not be precluded from considering any other marketing years deemed relevant; and the order should so provide.

An appraisal of redrying capacities should constitute an important part of the justification for recommended Salable Quantities. The capacity of the redrying plants governs the amount of flue-cured tobacco that can be processed during a week and hence the quantity which handlers should be permitted to handle.

As part of the marketing policy, the Committee should develop, and include therein, a schedule of estimated Salable Quantities for each week of the selling season, thereby apprising the Secretary, producers, handlers, and other interested persons of the Committee's thinking regarding operations during the marketing year.

The Committee in its policy statement should indicate the consideration that would be given to the distribution of Marketable Quantities among the prorated districts.

In developing the marketing policies, the Committee should consider the factors enumerated and also should consider any other pertinent factors related to the problem of regulating the flow of flue-cured tobacco from the farm to the market.

If unanticipated changes as related to supply and demand or capacity of redrying facilities should indicate a need for modification of a marketing policy, the Committee should submit to the Secretary a revised marketing policy

setting forth pertinent information with respect to such revisions.

In view of the importance of marketing policies, meetings of the Committee for the formulation of such policies should be open to producers, handlers, and other interested persons. Meetings of the Committee for the purpose of formulating marketing policies should be publicized through available media of public information including, but not limited to, press, radio and television facilities serving within the production area, and by other means if deemed appropriate to insure reasonable advance notice of such Committee meetings.

The Committee should transmit a copy of each marketing policy report and each revised marketing policy report to the Secretary. Also, the Committee should provide a summary of marketing policies or revised marketing policies to appropriate newspapers with general circulation in the respective prorate districts. Also, the Committee should maintain at its office a copy of all such policy reports and these reports should be available for examination by growers, handlers, and other interested parties or for the mailing to them upon written request.

Provisions should be included in the order as to the procedures to be followed in regulating the quantity of tobacco that may be handled. In this connection, the Committee should have authority to recommend to the Secretary for any specified week, or any number of successive weeks, of the selling season the total amount, or respective amounts, of flue-cured tobacco it deems advisable to be handled during the stated regulatory periods in terms of Salable Quantities.

The Committee should also recommend the distribution of such total amount, or amounts, to any one or more of the various prorate districts in terms of Marketable Quantities. With each recommended Marketable Quantity for a prorate district, the Committee should propose the Uniform Percentage that should be applicable for use in determining producers' Marketable Allotments for tobacco grown in such district. In arriving at an appropriate Uniform Percentage, the Committee should consider the period of the selling season for which the Salable Quantity and Marketable Quantity are being recommended and the Marketable Allotments to be based thereon.

In the event the Committee recommends a Salable Quantity, but fails to recommend to the Secretary its distribution as Marketable Quantities, the Committee should promptly transmit a report to the Secretary representing the individual views of the Committee members regarding the distribution of the Salable Quantity among the prorate districts. This report to the Secretary would establish the fact that no agreement was reached by the Committee. Thus the Secretary would know that he would have to act without such a recommendation if conditions so warrant. Also, it would establish the views of the respective members as to what the deci-

sion sought to be, even though they were not able to arrive at a decision among themselves.

In making recommendations with respect to Salable Quantities and Marketable Quantities, the Committee should consider (1) the maturity of the tobacco, the percent of production harvested and the climatic factors affecting the ability of growers to safely store flue-cured tobacco on the farms in each prorate district, (2) the cumulative weekly quantities of flue-cured tobacco handled during the then current selling season, (3) conditions in the redrying facilities as related to the need for increasing or decreasing the Salable Quantity and Marketable Quantities, (4) the number of auction markets and sales functioning and expected to function, (5) estimated quantities of tobacco remaining to be handled in the respective prorate districts, (6) percent of tobacco sold which has already been handled under the order (generally known as resale tobacco), and (7) any other pertinent factors considered in establishing or arriving at the marketing policy.

Provisions should be included in the order to the effect that a Marketable Quantity or Marketable Quantities that may be established for any week or successive weeks, may be different for different prorate districts as well as for different weeks whenever such action would tend to establish or maintain orderly marketing conditions. Therefore, the Committee should be authorized to recommend such actions whenever, after consideration of foregoing factors, the Committee concludes that such is warranted. Also, limitations in the order should provide that the handling of flue-cured tobacco grown in particular prorate district, or districts, prior to, or during, such time or times in the selling season as may be specified by the Secretary on the basis of the Committee's recommendation or other available information, shall be prohibited. This is necessary in order to allow for the orderly flow of the tobacco to market when a substantial quantity of the flue-cured tobacco harvested in a given belt, or belts, as compared with the quantity of harvested tobacco in other belts is ready for market. Also, this recognizes that generally throughout the production area, tobacco matures at different times beginning in the southernmost producing region and progressing northerly at a fairly regular rate. Thus, some belts may have little or no tobacco available for market when other belts have a significant quantity of such tobacco. Also, during the selling season, in the absence of such authority in the order, situations may arise when, because of a backlog (i.e., carryover) of unused Marketable Allotments for tobacco which may be handled from a particular prorate district or districts, or redrying plant congestion, or for other reasons orderly marketing conditions can not be established or maintained. In the light of the foregoing, the Committee, in making its recommendations as to Marketable Quanti-

ties, should set forth the reasons and basis for distributing, or not distributing, such quantities to each of the various prorate districts.

Authority should be provided for changing a Salable Quantity and the Marketable Quantities thereunder fixed by the Secretary, for a particular week, provided such changes can be made effective before the beginning of such week.

Accordingly, prior to the beginning of a week for which the Secretary has fixed the Salable Quantity and has established respective Marketable Quantities thereof which may be handled from the various prorate districts, the Committee should, if it deems such action advisable in view of significant changes in market conditions in the production area, recommend to the Secretary that such Salable Quantity be increased or decreased for such week and that Marketable Quantities be distributed among prorate districts. Such distribution may be among the same or different prorate districts and may be in different proportion than previously fixed.

The Committee should submit such recommended changes, and the reasons therefor, to the Secretary sufficiently in advance so as to allow for adequate time for taking final action before the beginning of the week.

The order should provide that as the end of a selling season approaches for a prorate district in which a Marketable Quantity is in effect, the Committee, if it finds that the total quantity of flue-cured tobacco remaining to be handled from such prorate district is extremely small in amount, is authorized to submit recommendations to the Secretary that subsequent Marketable Quantities for such district be unlimited for the remainder of the selling season. In this way, limitations on handling would apply to the tobacco from a prorate district only when the conditions so warrant.

The order should further provide that whenever the Secretary finds on the basis of the recommendations of the Committee, or other available information, that the issuance of regulations establishing a Salable Quantity and Marketable Quantities, together with applicable Uniform Percentages, would tend to effectuate the declared policy of the act, he should establish a Salable Quantity, Marketable Quantities thereunder, and applicable Uniform Percentages. Such provisions should also authorize the Secretary to prescribe unlimited Marketable Quantities, and whenever he finds that a Marketable Quantity no longer tends to effectuate the declared policy of the act to suspend or terminate such Marketable Quantity.

A Base Quantity should be established for each producer. As heretofore discussed in connection with the definition of the term "Base Quantity", the Base Quantity of a producer for a particular marketing year should be limited on a prorate district basis and cover the producer's farms therein, as shown on Tobacco Marketing Cards covering farms of such producer located in such prorate district.

The Committee also should have authority, with approval of the Secretary, to prescribe such rules and procedures as may be necessary to provide for the issuance of appropriate Tobacco Order Cards each marketing year to producers, representing their respective Base Quantities. A Tobacco Order Card should be designed to show the amounts of the producer's flue-cured tobacco that were handled during the selling season of such year.

Such rules and procedures should include, among other things, provisions whereby a producer who has more than one Tobacco Marketing Card for flue-cured tobacco produced in the same prorate district during the applicable marketing year may apply to the Committee for the issuance to such producer of the same number of Tobacco Order Cards for such tobacco. Each of the Tobacco Order Cards of such a producer should show the portion of the producer's Base Quantity which corresponds to the poundage allotment on the applicable one of the producer's Tobacco Marketing Cards, thereby affording needed flexibility in the handling of a producer's tobacco, as well as providing adequate means for checking compliance with order requirements.

There may be a few growers who desire to sell quantities of tobacco in excess of their marketing quotas as shown on their Tobacco Marketing Cards or have no marketing cards and pay the statutory penalty. The order should not prevent this; rather it should provide for the handling of such excess. In these circumstances, such producer should be permitted to apply to the Committee for a Tobacco Order Card prior to a week for which a Marketable Quantity is in effect and during which the producer desires to market a quantity of his tobacco. The foregoing should be effectuated by the Committee in accordance with rules and procedures recommended by the Committee and approved by the Secretary, for applications for, and issuance of, appropriate supplemental Tobacco Order Cards, or other forms, for handling of such quantities of tobacco.

When the Secretary establishes a Marketable Quantity for a prorate district, he should also fix the Uniform Percentage for use in determining the Marketable Allotment of each producer in that district.

A producer's Marketable Allotment in a prorate district during a specified week should be determined by multiplying such producer's Base Quantity by the Uniform Percentage fixed for the district. The amount resulting from this computation should be the producer's Marketable Allotment for such week. In order to prevent undue hardship on producers with small Base Quantities, the order should permit a producer to market at least 400 pounds a week, providing he has at least that amount remaining as the unmarketed portion of his Base Quantity. If he has less than 400 pounds remaining, his Marketable Allotment should be the remaining amount.

The notice of hearing proposed a minimum weekly allotment of 500 pounds

per producer. However, testimony brought out the fact that because of the large number of producers that would be involved, the minimum should be less than 500 pounds, otherwise the total quantity which could be handled on a weekly basis, under this provision could be excessive. Also, according to the record, the minimum marketable allotment should be a multiple of 200 pounds, since this is the maximum amount of tobacco presently permitted to be placed on a basket for sale at auction. Accordingly, it is concluded that such a minimum should be 400 pounds because a 200-pound limitation would be unreasonably small and uneconomical for producers.

The order should restrict the total quantity of tobacco which handlers may purchase from, or handle on behalf of, any and all producers during any week in which a Marketable Quantity is in effect. Thus, when a Marketable Quantity is established for a prorate district, no handler should be permitted to handle any quantity of a producer's flue-cured tobacco from this district during such week unless such quantity is within the Marketable Allotment of such producer or otherwise permitted to be handled under the order. Also, during any week when no Marketable Quantity has been distributed to a prorate district, no handler should handle any tobacco from such district during such week, as heretofore discussed. Each handler should be required, under the order, to ascertain that the flue-cured tobacco to be handled is within the producer's Marketable Allotment or is otherwise permitted by the order.

Also, such handler should be required to record on the producer's Tobacco Order Card at the time of his handling each quantity of such producer's flue-cured tobacco he handled. In this manner, each handler, as well as the Committee and the Secretary, will be able to determine whether the handling of the tobacco accords with the order provisions. Any resale tobacco covered by the Marketing Quota Program should, of course, not be entered on any such card because the tobacco in question would not be purchased from, or handled on behalf of, a producer. Because most producers do not have any convenient means of determining at the farm the exact pounds of tobacco they are delivering to an auction warehouse, a reasonable tolerance should be provided handlers for handling a limited quantity of tobacco in excess of the producers' Marketable Allotment. The outside limit of such a tolerance should be 10 percent, with authority for the Committee to prescribe, with the approval of the Secretary, a lesser percentage. Such authority is necessary to provide needed and sufficient flexibility in growers' and handlers' operations under the order. Whenever a quantity of tobacco within such tolerance is handled, the applicable producer's Marketable Allotment for the next regulatory week should be reduced by a like amount to compensate for the previous excess handling. Such adjustment, however, with respect to a Marketable Allotment,

should be confined to the same selling season, because a required offset from handling during the next selling season is not necessary for the effectuation of the declared policy of the act. In any event, there would be a period at the end of the selling season when unlimited Marketable Quantities would be in effect.

Often producers might not be able to deliver their tobacco to warehouses during a specific week for which a Marketable Quantity is in effect. In order to prevent undue hardships and allow equitable treatment of growers, the Marketable Allotment of a grower for a particular week should be increased by adding thereto a quantity equal to the unused portions of his prior Marketable Allotments of the current selling season. It follows that the tolerance for excess handling should also apply to an increased Marketable Allotment due to a prior deficit handling and the adjustment in subsequent Marketable Allotment should likewise apply.

Record evidence shows that the accumulation of unused full weekly minimum allotments (i.e., 400 pounds per week) could result in a large carryover for marketing during a particular week, which could lead to serious problems in maintaining orderly marketing conditions. This situation should be minimized by limiting the accumulation due to deficit marketing to the extent to which such deficit is in an amount not greater than the computed Marketable Allotment. This is consistent with the purpose for which minimum Marketable Allotments are determined for small producers, as heretofore discussed. The total of such allowable accumulation of deficits plus the computed Marketable Allotment of the producer for a particular week would, therefore, be the amount of such producer's tobacco that could be handled during that week. If such amount is less than the established minimum, the producer may market all or a portion of such minimum but only to extent of the remainder of his Base Quantity if it is less than 400 pounds.

For purposes of this program, the production area should be divided into five prorate districts which, with minor exceptions, conform with the long recognized flue-cured tobacco marketing belts. The auction markets in a particular prorate district, or belt, open simultaneously; and thus each of these districts falls into a natural division of the production area for administration of the program. These prorate districts should, therefore, be constituted as follows:

- (1) Prorate District 14 should be comprised of the States of Florida, Georgia, and Alabama.
- (2) Prorate District 13 should be limited to the State of South Carolina and the following counties in North Carolina: Bladen, Brunswick, Columbus, Cumberland, Hoke, Robeson, and Scotland.
- (3) Prorate District 12 should be limited to the following counties in North Carolina: Bertie, Beaufort, Camden, Carteret, Chowan, Craven, Dare, Duplin, Edgecombe, Gates, Greene, Halifax,

Harnett, Hertford, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pender, Pitt, Sampson, Wake (eastern part), Washington, Wayne, and Wilson.

(4) Prorate District 11(b) should be limited to the following counties in North Carolina: Anson, Cabarrus, Chatham, Cleveland, Durham, Franklin, Gaston, Granville, Lee, Montgomery, Moore, Richmond, Vance, Wake (western part), and Warren.

(5) Prorate District 11(a) should be limited to the State of Virginia and the following counties in North Carolina: Alamance, Alexander, Burke, Caldwell, Caswell, Catawba, Davidson, Davie, Forsyth, Guilford, Iredell, Orange, Person, Randolph, Rockingham, Rowan, Stokes, Surry, Wilkes, and Yadkin.

With the exception of Wake County, each listed county is entirely within the same prorate district. Traditionally, the eastern part of Wake County is considered as a part of the Type 12 producing region, and the western part as a part of the Type 11(b) producing region. According to the record, no precise dividing line has been recognized in Wake County and no such line can therefore be set forth as a part of the order. However, such a line should be established through rule making procedures under authority therefor in the order. In this connection, it would be appropriate for the Administrative Committee to avail itself of assistance from the County Agricultural Extension Service and the county Agricultural Stabilization and Conservation Service office (ASCS) in making its recommendations with respect to the establishment of the dividing line.

Each handler should be required at such times and manner as the Committee may prescribe with the approval of the Secretary to furnish to the Committee such reports as will enable the Committee to perform its duties and functions under this program. Such reports should include, but not be limited to, information concerning quantities of tobacco handled during specified periods. This information is needed by the Committee for such things as marketing policy determinations, issuance of volume regulations, compliance, and to determine the quantity of tobacco handled by each handler as a basis for payment of assessments.

Handlers should be required to maintain records pertaining to all tobacco handled, in order to substantiate the required Committee reports. Handlers should be required to maintain such records for not less than 2 years after the end of the marketing year to which such records relate. Since handlers now keep complete records of all tobacco transactions, there should be no difficulty in complying with this requirement. However, for the purpose of assuring compliance with the order, including its reporting and recordkeeping requirements, and verifying reports by handlers, the order should specifically authorize the Secretary and the Committee to have access to any premises where applicable records are maintained, and where

tobacco is received. Moreover, the Secretary and the Committee should be permitted at any time during normal business hours to inspect such handlers' premises, and any and all records of such handlers, with respect to matters within the purview of this program. This is a reasonable requirement and should not be unduly burdensome on handlers. The success or failure of the order could well hinge on compliance by handlers with the provisions of the program. Past experience in other marketing order programs underscores the importance of checking handler records and occasional inspection of handler premises as a means of verifying compliance.

E. Miscellaneous provisions. Except for § 1202.73(b), the provisions of §§ 1202.70 through 1202.81, as hereinafter set forth, are common to marketing agreements and orders now operating. The provisions of §§ 1202.85 through 1202.87, as hereinafter set forth, are applicable only to the marketing agreement and are also generally common to the marketing agreements now operating. These provisions of the marketing agreement and order set forth certain rights, obligations, privileges or procedures which are necessary and appropriate for effective operation of the program. The provisions are incidental to and not inconsistent with section 8c (6) and (7) of the act and are necessary to effectuate the other provisions of the order, and to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each of these provisions in the order.

Provisions should be included in § 1202.73(b) requiring the Secretary to terminate the provisions of the order at the end of any marketing year whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary (for purposes of this program, the preceding marketing year), produced for market more than 50 percent of the flue-cured tobacco so produced. So that due notice is given and producers and handlers may prepare for termination of the order, it should be announced as soon as practicable, but not later than March 1, and be made effective as of the end of such marketing year.

Rulings on proposed findings and conclusions. At the conclusion of the hearing on March 8, 1968, at Florence, S.C., the Presiding Officer fixed April 1, 1968, as the latest day on which interested parties could file briefs. Briefs filed with respect to the testimony presented in evidence at the hearing, and the findings and conclusions to be drawn therefrom, were carefully considered along with the record evidence in reaching the findings and conclusions herein set forth. To the extent that the findings and conclusions proposed in the briefs are inconsistent with those contained herein, the requests to make such findings or to reach such conclusions are denied.

General findings. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The marketing agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement and order regulate the handling of flue-cured tobacco grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The marketing agreement and order prescribe, so far as practicable, such different terms necessary to give due recognition to differences in the production and marketing of flue-cured tobacco; and

(5) All handling of flue-cured tobacco grown in the production area, as defined in said marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended marketing agreement and order. The following marketing agreement and order (the sections identified with asterisks (* * *) apply only to the proposed marketing agreement) are recommended as the detailed means by which the foregoing conclusions may be carried out:

DEFINITIONS

§ 1202.1 Department.

"Department" means the U.S. Department of Agriculture.

§ 1202.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 1202.3 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 48 Stat. 31, as amended).

§ 1202.4 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 1202.5 Flue-cured tobacco or tobacco.

"Flue-cured tobacco" or "tobacco" means all Types 11-14 flue-cured tobacco, as defined and classified in Part 30 of this title, produced in the production area.

§ 1202.6 Production area.

"Production area" means all territory included within the prorate districts as set forth in § 1202.56.

§ 1202.7 Grower; producer.

"Grower" or "producer" means any person who is engaged in a proprietary capacity in the commercial production of flue-cured tobacco.

§ 1202.8 Auction market.

"Auction market" means a market center which has been designated as a tobacco auction market pursuant to the Tobacco Inspection Act and any other place or establishment at which flue-cured tobacco received from growers is offered for sale at auction.

§ 1202.9 Sale.

"Sale" means a combination of auction warehouse personnel and buying personnel engaged in selling and buying tobacco at auction on an auction market.

§ 1202.10 Handle.

"Handle" means to sell at auction on behalf of a producer flue-cured tobacco received from such producer, or to purchase, other than at auction, flue-cured tobacco from the producer thereof. Flue-cured tobacco pledged for loan pursuant to the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.), shall be considered as having been sold on behalf of the producer.

§ 1202.11 Handler.

"Handler" means any person who handles flue-cured tobacco.

§ 1202.12 Tobacco Marketing Card.

"Tobacco Marketing Card" means a Tobacco Marketing Card (Form MQ-76 (Flue)), issued to a flue-cured tobacco producer by the Agricultural Stabilization and Conservation Service of the Department, pursuant to the Marketing Quota Program, indicating the marketing quota for such producer for a particular marketing year.

§ 1202.13 Tobacco Order Card.

"Tobacco Order Card" means the Tobacco Order Card, or other approved form, issued to a producer pursuant to § 1202.53.

§ 1202.14 Committee.

"Committee" means the Administrative Committee established pursuant to § 1202.30.

§ 1202.15 Marketing year.

"Marketing year" means the 12-month period beginning April 1 through March of the following year, except that the first marketing year shall begin on the effective date of this part.

§ 1202.16 Dealer.

"Dealer" means any person who is engaged in the business of purchasing flue-cured tobacco and processing flue-cured tobacco for storage and sale in leaf form.

§ 1202.17 Domestic manufacturer.

"Domestic manufacturer" is synonymous with "manufacturer" and means any person who is engaged in the business of purchasing flue-cured tobacco and manufacturing tobacco products therefrom.

§ 1202.18 Salable Quantity.

"Salable Quantity" means the desirable total quantity of flue-cured tobacco which should be handled from all prorate districts during a specified period of the selling season.

§ 1202.19 Marketable Quantity.

"Marketable Quantity" means the desirable total amount of flue-cured tobacco grown in a prorate district for handling during a specified period of the selling season.

§ 1202.20 Marketable Allotment.

"Marketable Allotment" means with respect to a particular prorate district, specified period of the selling season, and producer, the total amount, or remainder thereof, as applicable, of flue-cured tobacco from such prorate district which handlers may handle on behalf of, or purchase from, such producer during such period.

§ 1202.21 Base Quantity.

"Base Quantity" means the Base Quantity for a producer as provided in § 1202.53.

§ 1202.22 Uniform Percentage.

"Uniform Percentage" means the percentage for a specified prorate district and period of a selling season, fixed by the Secretary pursuant to § 1202.54(a).

§ 1202.23 Marketing Quota Program.

"Marketing Quota Program" means the Flue-Cured Tobacco Acreage-Poundage Program under authority of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), that is in effect during the then current selling season.

§ 1202.24 Selling season.

"Selling season" means that portion of the marketing year during which flue-cured tobacco is handled.

§ 1202.25 Part and subpart.

"Part" means the order regulating the handling of flue-cured tobacco grown in the production area and all rules, regulations, and supplemental orders issued thereunder, and the aforesaid order shall be a "subpart" of such part.

ADMINISTRATIVE COMMITTEE**§ 1202.30 Establishment and membership.**

(a) *Establishment.* An Administrative Committee consisting of 14 members is hereby established to administer the terms and provisions of this part. For each member of the Committee there shall be an alternate member who shall have the same qualifications as the member and, unless otherwise specified, all provisions of this part applicable to a

member shall be applicable to his alternate.

(b) *Membership representation.*—(1) *Growers.* Ten members shall be individuals who are producers, and who are not handlers, dealers, or manufacturers, or officers or employees of handlers, dealers, or manufacturers, with each prorate district being represented by two members who are producers therein.

(i) Each prorate district is divided into two election subdistricts for representation on the Administrative Committee, with each subdistrict being represented by a producer therein. The election subdistricts for the respective prorate districts set forth in § 1202.56 are as follows:

PRORATE DISTRICT 14

Election Subdistrict A, comprised of the State of Florida.

Election Subdistrict B, comprised of the States of Georgia and Alabama.

PRORATE DISTRICT 13

Election Subdistrict A, comprised of the State of South Carolina.

Election Subdistrict B, comprised of the following counties in North Carolina: Bladen, Brunswick, Columbus, Cumberland, Hoke, Robeson, and Scotland.

PRORATE DISTRICT 12

Election Subdistrict A, comprised of the following counties in North Carolina: New Hanover, Pender, Onslow, Cartaret, Duplin, Sampson, Harnett, Johnston, Wayne, Lenoir, Jones, Pamlico, and Craven.

Election Subdistrict B, comprised of the following counties in North Carolina: Dare, Washington, Pitt, Greene, Wilson, Nash, Halifax, Edgecombe, Martin, Bertie, Chowan, Camden, Gates, Hartford, Northampton, Wake (eastern part), and Beaufort.

PRORATE DISTRICT 11(b)

Election Subdistrict A, comprised of the following counties in North Carolina: Warren, Vance, Granville, Franklin, Wake (western part), and Durham.

Election Subdistrict B, comprised of the following counties in North Carolina: Chatham, Lee, Moore, Montgomery, Richmond, Anson, Cabarrus, Gaston, and Cleveland.

PRORATE DISTRICT 11(a)

Election Subdistrict A, comprised of the following counties in North Carolina: Alamance, Alexander, Burke, Caldwell, Caswell, Catawba, Davidson, Davie, Forsyth, Guilford, Iredell, Orange, Person, Randolph, Rockingham, Rowan, Stokes, Surry, Wilkes, and Yadkin.

Election Subdistrict B, comprised of the State of Virginia.

(ii) If the Secretary concludes, on the basis of a recommendation of the Committee, or other available information, that the boundaries of the election subdistricts within a given prorate district are no longer such as to afford the growers therein equitable representation and that the boundaries should be changed so as to achieve such result, he may make such changes. Grower members representing the same prorate district shall not be selected from the same State unless such entire prorate district is within such State.

(2) *Cooperative.* One member shall be the manager or other managerial employee of the Flue-Cured Tobacco Cooperative Stabilization Corporation.

(3) *Handler.* One member shall be an individual who is a handler, or an officer or employee of a handler, or an officer of an association of handlers.

(4) *Dealer.* One member shall be an individual who is a dealer, or an officer or employee of a dealer, or an officer of an association of dealers.

(5) *Domestic manufacturer.* One member shall be an individual who is an officer or employee of a domestic manufacturer.

§ 1202.31 Term of office.

The term of office of Committee members shall be for two consecutive marketing years, except that the respective initial terms of office of the grower members representing the various Election Subdistricts A (as set forth in § 1202.30 (b) (1) (i)), and of the handler and dealer members, shall expire at the end of the first marketing year. Committee members shall serve for the term of office for which they are selected and have qualified, and until their successors are selected and have qualified.

§ 1202.32 Nominations.

(a) Nominations for membership on the Committee shall be certified by the Committee and submitted to the Secretary by March 1, of each year in which successor members are to be selected, for his consideration in making a selection of the members of the Committee.

(b) Nominees for grower member positions shall be elected at an open meeting of growers in each election subdistrict. The Committee shall hold, and give reasonable publicity to, such nomination meetings. For the purpose of obtaining the initial nominees, the Secretary shall perform the functions of the Committee. The nominations, and election of nominees, shall be made at the meetings with separate nominations and voting for the nominees for member positions and alternate member positions. The eligible person receiving the highest number of votes for a position shall be the nominee for that position. Only persons who are producers in an election subdistrict may participate in nominating and electing the nominees from such subdistrict. For voting purposes, producers who are also handlers, dealers, or manufacturers, or their employees, can participate in elections.

(c) Nominees for other member and alternate member positions may be nominated through the organization channels of their respective groups for submission to the Secretary for his consideration.

(d) If the Secretary concludes, on the basis of a recommendation of the Committee, or other available information, that any nomination or election procedure provided in this section is unsatisfactory or should be changed for any other reason, he may change this procedure through formulation and issuance of superseding regulations.

§ 1202.33 Selections.

(a) Committee members shall be selected by the Secretary from nominees submitted in accordance with § 1202.32,

or from other eligible persons. If the Secretary declines to appoint any nominee submitted, he shall request that another nominee be submitted, at least once, before selection is made from among other eligible persons. If nominations are not made within the time and manner specified in § 1202.32, the Secretary may, without regard to nominations, select the members on the basis of the representation provided for in § 1202.30.

(b) Each person selected as a member or alternate member shall qualify by filing a written acceptance with the Secretary prior to serving on the Committee.

§ 1202.34 Alternate members.

An alternate member of the Committee shall act in the place and stead of the member for whom he is an alternate during such member's absence. In the event of the death, removal for cause, resignation, or disqualification of a member, his alternate shall act for him until a successor for the unexpired term of such member has been selected, as provided by § 1202.35, and has qualified. Alternate members shall also perform such other duties as may be assigned by the Committee.

§ 1202.35 Vacancy.

To fill any vacancy occasioned by the failure of any person selected as a member of the Committee to qualify, or in the event of the death, removal for cause, resignation, or disqualification of any member of the Committee, a successor for the unexpired term of such member shall be nominated and selected in the manner specified in §§ 1202.32 and 1202.33. If the name of a nominee to fill any such vacancy is not made available to the Secretary within 40 days after such vacancy occurs, the Secretary may fill such vacancy without waiting further for nominations, which selection shall be made on the basis of representation provided for in § 1202.30.

§ 1202.36 Compensation.

Members and alternate members of the Committee shall serve without compensation but shall receive such reasonable allowances for necessary expenses incurred in connection with their duties as may be approved by the Committee.

§ 1202.37 Powers.

The Committee shall have the following powers:

(a) To administer this subpart in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 1202.38 Duties.

The Committee shall have the following duties:

(a) To select from among its membership a chairman and such other officers as may be necessary, and to define the duties of such officers, and adopt such

rules and regulations for the conduct of its business as it may deem advisable;

(b) To appoint or employ such other persons as it may deem necessary and to determine the salaries and define the duties of such persons;

(c) To keep such minutes, books, and other records as will clearly reflect all of the acts and transactions of the Committee and which shall be subject to examination at any time by the Secretary;

(d) To cause the books and other records of the Committee to be audited by a public accountant at least once each marketing year and at such other times as the Committee may deem necessary or as the Secretary may request, and the report of each audit shall show, among other things, the receipts and expenditures of funds collected pursuant to this part, and two copies of each such audit report shall be furnished to the Secretary;

(e) To prepare periodic statements of its financial operations and to make copies of each such statement available to growers and handlers for examination at the office of the Committee, and submit a copy thereof to the Secretary;

(f) To act as an intermediary between the Secretary and any grower, handler, dealer, manufacturer, or other person;

(g) To investigate, assemble data on, and analyze market conditions, including the handling of flue-cured tobacco, and make recommendations to the Secretary concerning the movement of flue-cured tobacco to market during the current marketing year;

(h) To give the Secretary the same notice of meetings of the Committee and its subcommittees as is given to its members; and

(i) To investigate compliance and use means available to prevent violations of the provisions of this part.

§ 1202.39 Procedure.

(a) The Committee may hold meetings only after it gives due notice to its members. A quorum shall consist of 10 members, including alternate members acting as members; and any action of the Committee shall require at least nine concurring votes.

(b) The Committee may provide for voting by mail, telephone, or telegraph: *Provided*, That this method of voting shall not be used at an assembled meeting to obtain votes from absent members, and each such vote by telephone shall be promptly confirmed in writing by the voter. The quorum and concurring vote requirements shall be the same as for an assembled meeting.

EXPENSES, ASSESSMENTS, AND ACCOUNTING

§ 1202.45 Budget and expenses.

(a) The Committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each marketing year for its maintenance and functioning.

(b) The Committee shall, not later than 30 days after the beginning of a marketing year, prepare and submit to the Secretary a budget of its proposed expenses for such year and a proposed

rate of assessment, together with a report thereon. The funds to cover such expenses shall be acquired by levying assessments upon handlers as provided in this part.

§ 1202.46 Assessments.

(a) Each handler shall, with respect to the flue-cured tobacco handled by him, pay to the Committee, upon demand, his pro rata share of the expenses which the Secretary finds will be incurred by the Committee during each marketing year. Each handler's pro rata share shall be the rate of assessment per unit fixed by the Secretary times the total assessable units of tobacco handled by such handler during the marketing year. If all or a portion of the assessment is passed on to the grower by a handler as part of the handler's marketing fee or charges, the amount so passed on to the grower shall be separately identified on the warehouse bill of sale.

(b) In order to meet expenses of the Committee prior to the time in the marketing year when funds from assessments are available for such purposes, the Committee may accept advance payments from any handler to be credited toward such assessments or may be levied pursuant to this section against such handler during the marketing year. If the Committee does not have sufficient funds on hand to meet expenses, the Committee is authorized to borrow necessary funds until assessments are collected from handlers.

(c) At any time during, or after a marketing year, the Secretary may increase the rate of assessment to cover any later finding by the Secretary relative to the expenses of the Committee. Such increase shall be applicable to all tobacco handled during such marketing year and each handler shall pay such additional assessment to the Committee upon demand. The payment of assessments for the maintenance and functioning of the Committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

§ 1202.47 Accounting.

(a) If, at the end of a marketing year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in subparagraphs (2) and (3) of this paragraph, each handler who has paid assessments in excess of his pro rata share of the expenses during any marketing year shall be credited with such excess against his pro rata share of the expenses of the following year: *Provided*, That any sum paid by a handler in excess of his pro rata share of the expenses during any marketing year may be applied by the Committee at the end of such marketing year to any outstanding obligations due the Committee from such handler.

(2) The Committee, with the approval of the Secretary, may establish and maintain during one or more marketing years an operating monetary reserve,

consisting of all or any portion of such excess funds, in an amount not to exceed approximately 2 marketing years' operational expenses. Funds in such reserve shall be available for use by the Committee for all expenses authorized pursuant to the applicable provisions of this part.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the Committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the Committee and its members to account for all receipts and disbursements, funds, property, or records for which responsible.

(c) Whenever any person ceases to be a member of the Committee, he shall account for all receipts and disbursements, property, receipts, and funds under his control or in his possession, and deliver all such property, records, and funds to his successor and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

REGULATION

§ 1202.50 Marketing policy.

(a) Each marketing year prior to the beginning of the selling season the Committee shall prepare a marketing policy report for such season. Such marketing policy shall contain at least the following information: (1) Production of tobacco in the production area, and in each prorate district, for each of the three immediately preceding marketing years, and estimated production for the current marketing year; (2) auction market opening dates and observations relative to the percent of the production ready for marketing at that time in the respective prorate districts during each of the same 3 marketing years, and comments with respect to maturity of the current flue-cured tobacco crop; (3) a review of weekly marketings of flue-cured tobacco in the production area, and in the respective prorate districts, during each of the three immediately preceding marketing years; (4) appraisal of weekly capacities of available redrying facilities showing maximum quantities of flue-cured tobacco that can be so processed weekly; (5) a schedule of estimated Salable Quantities for the various weeks of the selling season, and justification therefor; (6) the Committee's appraisal, and basis therefor, with respect to the distribution during the selling season of the Marketable Quantities among the various prorate districts; and (7) any other pertinent factors bearing on the marketing of flue-cured tobacco. In the

event that it becomes advisable in view of changed supply and demand conditions, or conditions in regard to the capacities of redrying facilities, to modify substantially such marketing policy, the Committee shall prepare a revised marketing policy report setting forth the information as required in this paragraph.

(b) All meetings of the Committee held for the purpose of considering the formulation of such marketing policies, and revisions thereof, shall be open to producers, handlers, and other interested persons. The Committee shall give reasonable advance notice of such meetings by utilizing available media of public information (including, but not being limited to, press, radio, and television facilities) serving within the production area and by such other means as it deems appropriate.

(c) The Committee shall transmit a copy of each marketing policy report, and of each revision thereof, to the Secretary and provide a summary thereof to appropriate newspapers of general circulation in the respective prorate districts. Copies of all such reports shall be maintained in the office of the Committee where they shall be available for examination by growers and handlers, and other interested persons, or for the mailing to them upon written request.

§ 1202.51 Recommendations for volume regulation.

(a) For any specified week of the selling season, the Committee may recommend to the Secretary the total amount of flue-cured tobacco which it deems advisable to be handled, including a distribution of such total amount to any one or more of the various prorate districts in terms of Marketable Quantities. With each such recommendation, the Committee shall recommend the respective Uniform Percentages for use in such week for such prorate districts in determining producers' Marketable Allotments for tobacco grown in the applicable districts. In arriving at an appropriate Uniform Percentage for a particular prorate district, the Committee shall consider among other things the week in the selling season for which the Salable Quantity and Marketable Quantities are being recommended. If for any reason the Committee recommends a Salable Quantity, but fails to recommend to the Secretary the distribution thereof to one or more of the prorate districts in terms of Marketable Quantities, the Committee shall submit with its recommendation the individual views of the Committee members with respect to the distribution of the Salable Quantity. In the manner provided in this paragraph, the Committee may make its recommendations for a number of specified successive weeks.

(b) In making its recommendations, the Committee shall give due consideration to the following factors: (1) Maturity of the crop; the percent of the production of tobacco in each prorate district that was harvested and will be

available for marketing during the specified week; and the climatic factors affecting the ability of growers in the respective prorate districts to safely store the harvested tobacco on the farms; (2) cumulative weekly quantities of flue-cured tobacco handled during the then current selling season to date; (3) conditions in the redrying facilities as related to the need for fixing, or changing, a Salable Quantity and Marketable Quantities for such week; (4) number of auction markets and sales functioning during the current week and the preceding week and anticipated changes in the number of such markets and sales during the specified week as related to the appraisal of the Marketable Quantities for such week; (5) estimated proportion of the tobacco production remaining to be handled in the respective prorate districts; (6) percent of tobacco sold which is resale tobacco; and (7) such of the factors enumerated in § 1202.50 as are applicable.

(c) Prior to the beginning of a week for which the Secretary, pursuant to § 1202.52(a), has fixed the Salable Quantity and has established the respective Marketable Quantities thereof which may be handled from the various prorate districts, the Committee shall, if it deems such action advisable in view of changed market conditions in the production area recommend to the Secretary that such Salable Quantity be increased or decreased, together with a redistribution of such changed quantity among specified prorate districts. Each such recommendation, together with the Committee's reasons therefor, shall be submitted promptly to the Secretary in the manner prescribed in paragraph (a) of this section.

(d) Toward the end of the selling season, if the Committee finds that the total quantity of flue-cured tobacco remaining to be handled in a particular prorate district is in such small amount that a Marketable Quantity for such district in an amount other than unlimited would not tend to effectuate the declared policy of the act for the remainder of the selling season, it shall submit its recommendation to the Secretary that subsequent Marketable Quantities for such district be unlimited.

§ 1202.52 Issuance of volume regulations.

(a) Whenever the Secretary finds, from the recommendations and information submitted by the Committee or from other available information, that to fix the Salable Quantity for a particular week, or the respective Salable Quantities for specified successive weeks, of the selling season and to limit, in the manner specified in this section, the respective amounts thereof produced in the various prorate districts which may be handled during such week, or specified successive weeks, will tend to effectuate the declared policy of the act, he shall fix such Salable Quantity or Salable Quantities and so limit such amounts for such specified week or successive weeks. Such limitations may be by:

(1) Establishing a Marketable Quantity for the flue-cured tobacco produced in a prorate district for handling during a specified week of the selling season, or respective Marketable Quantities for such tobacco for each week of a specified number of successive weeks. A Marketable Quantity shall be established for one or more prorate districts and may differ in amount as among districts for which Marketable Quantities are established so as to reflect the market conditions throughout the production area. When successive weeks are involved, the respective Marketable Quantities established may be different for different weeks.

(2) Prohibiting the handling of flue-cured tobacco grown in a particular prorate district or districts prior to, or during, such time or times in the selling season as may be specified: *Provided*, That no such prohibition shall prevent handlers from handling during the then current selling season the total quantity of flue-cured tobacco available for sale by all producers thereof, including such quantities as may be subject to penalty under the Marketing Quota Program.

(b) In the same manner as provided in paragraph (a) of this section, the Secretary may increase or decrease the Salable Quantity theretofore fixed for a specified week prior to the beginning of such week. Similarly, the Secretary may increase or decrease the Marketable Quantities theretofore established for the various prorate districts for a specified week prior to the beginning of such week. Whenever the Secretary finds from the recommendation and information submitted by the Committee or from other available information that a Marketable Quantity no longer tends to effectuate the declared policy of the act, he shall suspend or terminate such Marketable Quantity. Whenever the Secretary finds from the recommendation and information submitted by the Committee or from other available information that a Marketable Quantity for a prorate district should be unlimited for the remainder of the selling season, he shall so provide.

§ 1202.53 Base Quantities.

(a) The Base Quantity of any producer in a particular prorate district for a particular marketing year shall be an amount equal to the total of the respective poundage allotments of such producer for that marketing year set forth as "110 percent of quota" on all of his Tobacco Marketing Cards covering farms located in such prorate district.

(b) The Committee may, with approval of the Secretary, prescribe such rules and procedures as may be necessary to provide for the issuance each marketing year to each producer of an appropriate Tobacco Order Card to represent his Base Quantity and to show the amounts of such producer's flue-cured tobacco handled during the selling season of such year. Such rules and procedures may include, among other things, provisions whereby a producer who has more than one Tobacco Marketing Card for

the marketing year applicable to flue-cured tobacco produced in the same prorate district may apply to the Committee for the issuance of the same number of Tobacco Order Cards applicable to such tobacco, with each such card showing the portion of the producer's Base Quantity corresponding to the poundage allotment on the applicable one of the producer's Tobacco Marketing cards.

(c) Prior to a week for which a Marketable Quantity is established, during which a producer desires to have a quantity of his flue-cured tobacco handled that is in excess of his Base Quantity, such producer may apply to the Committee, in such manner and form as it may prescribe with the approval of the Secretary, for a Supplemental Tobacco Order Card, to cover the handling of such excess quantity.

§ 1202.54 Uniform Percentage and Marketable Allotments.

(a) Whenever the Secretary establishes a Marketable Quantity of flue-cured tobacco for a particular prorate district, he shall fix the Uniform Percentage for use in determining, in accordance with this section, the Marketable Allotment for each producer in such district.

(b) The Marketable Allotment for any producer in a prorate district during a specified week shall be computed by multiplying such producer's Base Quantity by the Uniform Percentage, except as otherwise provided in § 1202.55. The computed amount (but in no event less than 400 pounds, but not greater than the balance of the producer's Base Quantity if smaller than 400 pounds) shall be the producer's Marketable Allotment.

§ 1202.55 Restriction on handling.

(a) Whenever a Marketable Quantity is established for a prorate district for any week, no handler may handle any flue-cured tobacco from such district during such week unless (1) it is within the unused portion of the Marketable Allotment for a producer or is otherwise permitted to be handled in accordance with paragraph (b) of this section, and (2) such handler records at the time of handling, on the producer's Tobacco Order Card or Cards, or Supplemental Tobacco Order Cards, as applicable, the respective quantities of flue-cured tobacco so handled. Any resale tobacco, covered by the Marketing Quota Program, need not be recorded.

(b) Excess handlings: During any week for which the Secretary has established a Marketable Quantity for a prorate district, no handler may purchase from, or handle on behalf of, any producer any quantity of tobacco which when added to all other quantities of such producer's tobacco handled by all handlers during such week aggregates more than 110 percent (or such other percent in excess of 100 percent, but not greater than 110 percent as the Committee may prescribe with the approval of the Secretary) of such producer's Marketable Allotment or is covered by a supplemental tobacco order card. Such producer's Marketable Allotment for the

next week for which a Marketable Quantity is established by the Secretary shall be decreased by an amount equal to the quantity of flue-cured tobacco so handled in excess of 100 percent of the producer's prior Marketable Allotment. However, no such adjustments shall be made except with respect to Marketable Allotments during the same selling season.

(c) Deficit handling: During any week for which the Secretary has established a Marketable Quantity for a prorate district, the computed Marketable Allotment of a producer shall be increased by adding thereto a quantity equal to the unused portions of the producer's computed Marketable Allotments for the preceding weeks of the current selling season. In the event the increased Marketable Allotment is less than 400 pounds, the total amount of the increased Marketable Allotment shall be 400 pounds or the remainder of the producer's Base Quantity, if smaller than 400 pounds, whichever amount is the lesser. The provisions of paragraph (b) of this section shall also be applicable to the increased Marketable Allotment of the producer.

§ 1202.56 Prorate districts.

For purposes of this part, the production area is divided into five prorate districts as follows:

(a) "Prorate District 14" means the States of Florida, Georgia, and Alabama.

(b) "Prorate District 13" means the State of South Carolina and the following counties in North Carolina: Bladen, Brunswick, Columbus, Cumberland, Hoke, Robeson, and Scotland.

(c) "Prorate District 12" means the following counties in North Carolina: Bertie, Beaufort, Camden, Carteret, Chowan, Craven, Dare, Duplin, Edgecombe, Gates, Greene, Halifax, Hertford, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Onslow, Pamlico, Pender, Pitt, Sampson, Wake (eastern part), Washington, Wayne, Wilson, and Northampton.

(d) "Prorate District 11(b)" means the following counties in North Carolina: Anson, Cabarrus, Chatham, Cleveland, Durham, Franklin, Gaston, Granville, Lee, Montgomery, Moore, Richmond, Vance, Wake (western part), and Warren.

(e) "Prorate District 11(a)" means the State of Virginia and the following counties in North Carolina: Alamance, Alexander, Burke, Caldwell, Caswell, Catawba, Davidson, Davie, Forsyth, Guilford, Iredell, Orange, Person, Randolph, Rockingham, Rowan, Stokes, Surry, Wilkes, and Yadkin.

(f) The Committee shall establish, with the approval of the Secretary, the dividing line between the eastern part and western part of Wake County, North Carolina.

REPORTS AND RECORDS

§ 1202.57 Reports.

Each handler shall furnish to the Committee, in such manner and at such times as the Committee may prescribe with the

approval of the Secretary, such reports as will enable the Committee to perform its duties and functions under this part. Such reports shall include, but not be limited to, information concerning quantities of tobacco handled during specified periods.

§ 1202.58 Records.

Each handler shall maintain such records pertaining to all tobacco handled as will substantiate the required reports. All such records shall be maintained for not less than 2 years after the end of the marketing year to which such records relate. For the purpose of assuring compliance with recordkeeping requirements and verifying reports by handlers, the Secretary and the Committee, through their duly authorized representatives and employees, shall have access to any premises where applicable records are maintained, and where tobacco is received, and at any time during normal business hours shall be permitted to inspect such handlers' premises, and any and all records of such handlers, with respect to matters within the purview of this part.

MISCELLANEOUS PROVISIONS

§ 1202.70 Compliance.

Except as provided in this subpart, no handler shall handle any flue-cured tobacco except in conformity with and pursuant to the provisions of this subpart and the regulations issued under this subpart.

§ 1202.71 Right of the Secretary.

Members of the Committee and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every decision, determination, and other act of the Committee shall be subject to the continuing right of disapproval by the Secretary at any time. Upon such disapproval, the disapproved action of the Committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 1202.72 Effective time.

The provisions of this subpart, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § 1202.73.

§ 1202.73 Termination.

(a) The Secretary shall terminate or suspend the operation of any or all of the provisions of this part whenever he finds that such provisions obstruct or do not tend to effectuate the declared policy of the act.

(b) The Secretary shall terminate the provisions of this part at the end of any marketing year whenever he finds that such termination is favored by a majority of the producers who, during the preceding marketing year, produced for market more than 50 percent of the volume of

flue-cured tobacco so produced; *Provided*, That such termination shall be effective only if announced on or before March 1 of the marketing year.

(c) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 1202.74 Proceedings after termination.

(a) Upon termination of the provisions of this part, the then functioning members of the Committee shall, for the purpose of liquidating the affairs of the Committee, continue as joint trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said joint trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Committee and of the joint trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Committee or the joint trustees pursuant to this part.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the members of the Committee and upon the joint trustees.

§ 1202.75 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen prior thereto or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or other person with respect to any such violations.

§ 1202.76 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon its termination, except with respect to acts done under and during the existence of this subpart.

§ 1202.77 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the Department, to act as his agent or representative in connection with any of the provisions of this part.

§ 1202.78 Derogation.

Nothing in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 1202.79 Personal liability.

No member or alternate member of the Committee, and no employee, agent, or representative of the Committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, agent, or representative except for acts of dishonesty, willful misconduct, or gross negligence.

§ 1202.80 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this part of the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 1202.81 Amendment.

Amendments to this part may be proposed, from time to time, by the Committee or by the Secretary.

§ 1202.85 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. * * *

§ 1202.86 Additional parties.

After the effective date thereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting part at the time such counterpart is delivered to the Secretary, and the benefits, privileges and immunities conferred by this agreement shall then be effective as to such new contracting party. * * *

§ 1202.87 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of flue-cured tobacco in the same manner as is provided for in this agreement. * * *

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

JULY 16, 1968.

[F.R. Doc. 68-8605; Filed, July 18, 1968; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 25]

[Docket No. 8416; Notice 68-15]

TRANSPORT CATEGORY AIRPLANES

Pressure Altitude Limitation

The Federal Aviation Administration is considering amending Part 25 of the Federal Aviation Regulations to permit airplanes that are certificated for all cargo operations only to be equipped to provide a cabin pressure altitude of not more than 10,000 feet.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before August 19, 1968, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 25.841(a) now requires that pressurized cabins and compartments to be occupied must be equipped to provide a cabin pressure altitude of not more than 8,000 feet at the maximum operating altitude of the airplane under normal operating conditions. This covers pressurized cabins and compartments that are to be occupied by crewmembers only as well as those occupied by passengers. The effect of this requirement is to limit all airplanes to operating at an altitude at which a cabin pressure altitude of not more than 8,000 feet can be maintained.

However when § 4b.375(1)(b), the predecessor regulation to § 25.841(a), was promulgated passenger safety was the basic concern and little or no consideration was given to all cargo operations in which the pressurized cabins and compartments are occupied only by crewmembers. In this connection, the operating rules applicable to air carriers and commercial operators (Parts 121 and 135 of the FARs) require that supplemental oxygen be supplied to crewmembers only above a cabin pressure altitude of 10,000 feet. Furthermore, operating experience to date has shown that crewmembers of large airplanes are physically able to withstand indefinite exposure at cabin pressure altitudes up to 10,000 feet and do not experience any significant reduction in the level of their performance.

On the other hand, the FAA is aware that there may be passengers who are not physically able to withstand cabin pressure altitudes higher than 8,000 feet. It is, therefore, proposed to permit airplanes that are not to be occupied by passengers to be equipped to provide cabin pressure altitude of not more than 10,000 feet.

In consideration of the foregoing, it is proposed to amend § 25.841 of Part 25, by striking out the first sentence in paragraph (a), by designating the second sentence of paragraph (a) as paragraph (b), by redesignating present paragraph (b) as paragraph (c), and by adding a new paragraph (a) to read as follows:

§ 25.841 Pressurized cabins.

(a) Pressurized cabins and compartments must be equipped to provide—

(1) For airplanes that are to be occupied by passengers, a cabin pressure altitude of not more than 8,000 feet at the maximum operating altitude of the airplane under normal operating conditions; and

(2) For airplanes that are not to be occupied by passengers, a cabin pressure altitude of not more than 10,000 feet at the maximum operating altitude of the airplane under normal operating conditions.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, and 1423).

Issued in Washington, D.C., on July 12, 1968.

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

[F.R. Doc. 68-8574; Filed, July 18, 1968; 8:46 a.m.]

Federal Highway Administration

[23 CFR Part 256]

[Docket No. 20; Notice No. 4]

REGROOVED TIRES

Notice of Extension of Time To File Comments

On June 12, 1968, the Federal Highway Administration published in the FEDERAL REGISTER (33 F.R. 8603) a notice of proposed rule making for regrooved tires. It was requested that interested persons submit comments by close of business July 22, 1968.

Upon consideration of requests for extension of time for filing comments, the time to file comments is extended to the close of business August 21, 1968.

Issued in Washington, D.C., July 17, 1968.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 68-8659; Filed, July 18, 1968; 8:48 a.m.]

[49 CFR Part 293]

[Docket No. MC-5]

TIRES

Notice of Extension of Time To File Comments

On June 12, 1968, the Federal Highway Administration published in the *FEDERAL REGISTER* (33 F.R. 8604) a notice of proposed rule making proposing to amend § 293.75 *Tires*, of the Motor Carrier Safety Regulations (49 CFR Part 293). It was requested that interested persons submit comments by close of business July 22, 1968.

Upon consideration of requests for extension of time for filing comments, the time to file comments is extended to the close of business August 21, 1968.

Issued in Washington, D.C., on July 17, 1968.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 68-8658; Filed, July 18, 1968;
8:48 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Part 260]

[Docket No. R-317]

CLASS A NATURAL GAS COMPANIES

Annual Reporting of 5-Year Forecasts of Peak Day and Annual Natural Gas Requirements and Pipeline Construction Plans; Order Setting Oral Argument

JULY 11, 1968.

By notice dated March 23, 1967, the Commission proposed to prescribe a new form for the annual reporting by Class A natural gas pipeline companies of information relating to their 5-year forecasts of peak day and annual natural gas requirements as well as their construction plans.

In response to the notice of proposed rule making, comments were received from 28 natural gas companies, the Inde-

pendent Natural Gas Association of America, and the Kansas Corporation Commission. In addition, the Commission permitted interested persons to comment on the proposal at a conference conducted by staff personnel on October 31, 1967. In general the comments questioned the appropriateness of the receipt of the proposed information by the Commission as well as the ability of the industry to furnish the requested information.

The rule making is intended to establish a procedure whereby the Commission would regularly gather the type of general industry information which may assist it in discharging its obligations under the Natural Gas Act. In view, however, of the nature of the comments received we are of the view that it would be beneficial to explore all of the alternative procedures that could be utilized to satisfy this objective. Accordingly, we have determined that it would be appropriate to hold oral argument.

While the formal subject of the oral argument will be the reporting requirement noticed by the Commission on March 23, 1967, as hereinafter modified, it should be understood that the Commission does not wish the presentations to be limited to the information requirement as proposed; instead all alternatives should be explored.

The Commission recognizes that any long-term planning that is now done by pipelines must by its nature be tentative and continually the subject of revision. We do not intend in any way to interfere with this process of reexamination. We recognize full well that any plans filed with us pursuant to the reporting requirement specified in the notice, as revised, or any variation thereto that may be adopted will remain subject to modification as changing circumstances dictate. We do, however, think it appropriate that the Commission have the benefit of whatever tentative planning is now being done by the industry. We therefore would like that planning discussed at the oral argument which we are herein scheduling and desire that the parties address themselves to, among other issues, the transmittal of such planning information to the Commission.

While, as indicated, the Commission has not determined that the reporting requirement which it has noticed should be implemented it is appropriate to make certain revisions to the proposed schedules in light of the comments thus far received. The schedule which would have required the reporting of the "end use" of gas sold to main line direct industrial customers has been deleted as has much of the detail previously requested in Schedule III pertaining to construction plans. Schedules I and II have been revised to make clear that all that is sought is "projections" rather than company "forecasts." Finally, as now proposed the schedules would only have to be completed by natural gas companies whose combined sales for resale and gas transported or stored for a fee exceeded 50 million Mcf in the preceding calendar year, excepting those companies engaged solely in transportation of gas for others. This change will greatly reduce the number of companies that will be required to report (from 71 to 32 companies) by excusing the smaller companies. The 32 companies which would remain subject to the reporting requirement do, however, account for 90 percent of all interstate pipeline sales. The schedules and instructions as revised are attached.¹

The Commission orders: Oral argument before the Commission in Docket No. R-317 shall be held on September 13, 1968 at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. All interested persons desiring to participate in the oral argument shall inform the Secretary of the Commission in writing, not later than August 15, 1968, of the length of time desired for their oral presentations. No written briefs or memoranda should be filed.

By the Commission.

[SEAL]

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-8564; Filed, July 18, 1968;
8:45 a.m.]

¹ Schedules and instructions filed as part of the original document.

Notices

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. B-432]

LAWSON ODALE HILL

Notice of Loan Application

JULY 15, 1968.

Lawson Odale Hill, Box 143A, Chester, Md. 21619, has applied for a loan from the Fisheries Loan Fund to aid in financing the construction of a new 42-foot length wood vessel to engage in the fishery for oysters and crabs.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965) that the above entitled application is being considered by the Bureau of Commercial

Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

J. L. McHUGH,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 68-8586; Filed, July 18, 1968;
8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (33 F.R. 3146, 4113, 5052, 6557, and 7699) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act (34 Stat. 1260, as amended by Public Law 90-201) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as indicated in the following table listing species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

Name of Establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Quality Meat Packing Co.	661	(*)	(*)					
Capital Wholesale Meats	965	(*)						
Associated Meat Packers, Inc.	1472	(*)	(*)					
Valley Packing Co.	2280	(*)				(*)		
Jack Agee and Co.	2281					(*)		
Husband Brothers Packing Co.	2284	(*)				(*)		
Johnston Dressed Beef and Veal, Inc.	5300	(*)	(*)					
George H. Meyer Sons, Inc.	6521	(*)	(*)			(*)		
Portsmouth Dressed Beef, Inc.	6538	(*)	(*)		(*)			
Choice Packing Co., Inc.	6545	(*)	(*)		(*)			
Martin's Abattoir	6547	(*)	(*)		(*)	(*)		
New establishments reported: 11.								
Armour and Co.	21HT	(*)						
Samuels and Co.	94	(*)						
Heinz's Riverside Abattoir, Inc.	210	(*)						
Nobles Independent Meat Co.	335	(*)						
Montebello Meat Packing Co.	364		(*)					
K-M Co.	719	(*)						
Pace Packing Co.	2228				(*)	(*)		
Albee Meat Co.	2230				(*)	(*)		
Wright Packing Co.	2269	(*)						
Guard Hill Meats, Inc.	6526	(*)						

Species added: 11.

Done at Washington, D.C., this 15th day of July 1968.

H. M. STEINMETZ,
Acting Deputy Administrator, Consumer Protection.

[F.R. Doc. 68-8584; Filed, July 18, 1968; 8:46 a.m.]

GRAIN STANDARDS

Oklahoma City Inspection Point

Statement of considerations. On May 18, 1968, there was published in the FEDERAL REGISTER (33 F.R. 7461) a notice of proposed rule making to consider a request from Robert H. Jordan, Oklahoma City Grain Inspection Department, asking that one or more licensed grain inspectors be authorized to post their licenses to inspect and grade grain under the U.S. Grain Standards Act (7 U.S.C. 71 et seq.) at Oklahoma City, Oklahoma County, Okla.

Inspection agencies, members of the grain trade, and other interested parties were given an opportunity to submit written data, views, or arguments with respect to the need, operation, and support of the proposed established inspection point.

Interested persons or organizations were given until June 7, 1968, to submit written data, views, or arguments with respect to the request.

The Oklahoma City Grain Inspection Department submitted data, views, and arguments in favor of its operating an inspection point at Oklahoma City. This was the only response received from an inspection agency. Three responses were received from grain firms favoring the operation of an established grain inspection point at Oklahoma City by the Oklahoma City Grain Inspection Department. No contrary written data, views, or arguments were submitted with regard to the request.

Pursuant to the authority contained in section 8 of the U.S. Grain Standards Act, as amended (7 U.S.C. 84), Oklahoma City, Oklahoma County, Okla., is hereby approved under the U.S. Grain Standards Act as a place where licensed inspectors may post their licenses, and the Oklahoma City Grain Inspection Department is hereby authorized to station one or more licensed inspectors at that point.

Wheat harvest is in progress in the Oklahoma City area, and requests for inspection services are being received. The approval and authorization of the inspection point will not require any significant changes in business practices and procedures. Therefore, under the administrative procedure provision of 5 U.S.C. section 553, good cause is found for making this notice effective less than 30 days after publication in the FEDERAL REGISTER.

This notice shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 8, 39 Stat. 485; 7 U.S.C. 84; 29 F.R. 16210, as amended, 32 F.R. 11741)

Done in Washington, D.C., this 16th day of July 1968.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 68-8604; Filed, July 18, 1968;
8:48 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing
DEPUTY DIRECTOR ET AL.

Delegation of Authority To Act as Director Under Specified Conditions

1. Under the authority conferred upon me by Treasury Department Order No. 129 (Revision No. 2), dated April 22, 1955, the following officials of the Bureau of Engraving and Printing, in the order of succession enumerated, shall act as Director of the Bureau of Engraving and Printing during the absence or disability of or in the event of a vacancy in the Office of the Director of the Bureau of Engraving and Printing:

- (1) Deputy Director.
- (2) Chief, Office of Security and Audit.
- (3) Chief, Office of Manufacturing.
- (4) Chief, Office of Financial Management.

2. In the event of an enemy attack upon any point within the continental limits of the United States the officials named in paragraph 1 and, in addition, the following officials of the Internal Revenue Service, in the order of succession enumerated, are authorized to exercise so much of the authority of the Secretary of the Treasury and of the Director of the Bureau of Engraving and Printing as is necessary to insure continuous performance of all essential functions of the Bureau of Engraving and Printing:

(1) Assistant Regional Commissioner (Administration), Internal Revenue Service, Swift Building, Cincinnati, Ohio 45202.

(2) Assistant Regional Commissioner (Administration), Internal Revenue Service, Federal Office Building, Atlanta, Ga. 30303.

3. The purpose of the authorization contained in paragraph 2 is to provide a temporary expedient to meet emergency conditions. The respective officials will be notified when they are to cease to exercise the authority herein delegated.

Dated: July 16, 1968.

[SEAL] JAMES A. CONLON,
Director, Bureau of
Engraving and Printing.

[F.R. Doc. 68-8606; Filed, July 18, 1968;
8:48 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services
Administration

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

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 Producer Goods, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00466-56-54100. Applicant: Environmental Science Services Administration, Administration Operations Division, Rockville, Md. 20852. Article: Meteorological radar set consisting of:

- 1 Parabolic antenna with feed and base (AS29/AB-51).
- 1 Stabilized platform for antenna (AB-52).
- 1 Modulator transmitter receiver (RTMD-11A).
- 1 Tracking and servo unit (TD-5).
- 1 Stabilization cabinet (OA-50).
- 1 Operating and display console (IP-40A).
- 1 Data presentation unit (OA-51).
- 1 Pressurization unit (HD-9).
- 1 North stabilizing unit (TG-14SM).
- 1 Verticle reference gyro (WO-256-163/12).
- 3 Ward Leonard groups (1 each 71G-063-G80) (2 each 71G-119-G803).
- 2 Transformers (MT-2257, MT-2258).
- 1 Frequency converter (ACMA-150).
- 1 Data printing unit (OA-26).
- 1 Performance monitor (114/311).
- 1 Reflection plotting set (STO-5518.G1).
- 1 Optical director (OZC-1).
- 1 Automatic radar scope camera and support (MEM-44.5504.G1).
- 5 Instruction handbooks.
- 1 Installation materials (set of cables, wave guides, etc.).
- 1 Spare parts kit.

Manufacturer: Selenia, Italy. Intended use of article: The article will be used for participation in meteorological-oceanographic research projects related to the Global Atmospheric Research Program. Comments: No comments have been received with respect to this application. 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) The foreign article is to be employed aboard an oceanographic ship for various purposes related to oceanographic and atmospheric research. For the purposes for which the foreign article is intended to be used, the capability of retaining

the orientation to true North, regardless of the ship's roll, pitch, or heading, is a pertinent characteristic of the foreign article. Only one domestic manufacturer, the Bendix Corp. (Bendix), responded to the applicant's invitation to bid. Bendix took several exceptions to the applicant's specifications, one of which related to the method for stabilizing the Bendix instrument against the ship's motions. We are advised by the National Bureau of Standards (NBS) (memorandum dated May 21, 1968), that the alternative method proposed by Bendix is not considered to be scientifically equivalent to the method employed in the foreign article for stabilization, in that the proposal of Bendix calls for a range of elevation which does not extend to 90°. (2) In addition, Bendix took exception to the delivery schedule called for in the applicant's specifications. The foreign article is to be used in connection with an international cooperative Global Atmospheric Research Program.

The delivery schedule for the meteorological radar set was imposed on the applicant by the schedule of the Global Atmospheric Research Program. Therefore, the Bendix proposed instrument, because of its exclusion of pertinent design and performance characteristics, as well as the inability to meet the delivery schedule, is not considered to be of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

EDWARD G. SMITH,
Director, Office of Producer
Goods, Business and Defense
Services Administration.

[F.R. Doc. 68-8562; Filed, July 18, 1968;
8:45 a.m.]

Maritime Administration

[Docket No. S-216]

LYKES BROS. STEAMSHIP CO., INC.

Notice of Application

Notice is hereby given of the application dated July 3, 1968, as supplemented July 12, 1968, of Lykes Bros. Steamship Co., Inc., for written permission under section 805(a) of the Merchant Marine Act, 1936, as amended (Act), for its owned vessel, the "SS Shirley Lykes," to call Hawaii on one voyage to load general cargo for movement from Hawaii to U.S. Gulf ports. The applicant anticipates that the "SS Shirley Lykes" will be placed on berth in Hawaii to load such cargo on or about August 15, 1968.

Interested parties may inspect this application in the Office of Government Aid, Maritime Administration, Room 4077, GAO Building, 441 G Street NW., Washington, D.C.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit a written statement with reference to the

application must by close of business on July 29, 1968, file same with the Secretary, Maritime Subsidy Board/Maritime Administration in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief. Notwithstanding anything in § 201.78 of the Maritime Subsidy Board/Maritime Administration rules of practice and procedure (46 CFR Part 201), petitions for leave to intervene received after close of business on July 29, 1968, will not be considered in this proceeding.

If no petitions for leave to intervene are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for August 2, 1968, at 10 a.m., in Room 4519, General Accounting Office Building, 441 G Street NW., Washington, D.C. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the proposed domestic service involved or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

This notice with respect to the proposed voyage of the "SS Shirley Lykes" is not to be construed as superseding or rescinding the notice which appeared in the FEDERAL REGISTER issue of July 10, 1968 (33 F.R. 9915) regarding an application of Lykes Bros. Steamship Co., Inc., for written permission under section 805 (a) to utilize its subsidized vessels in domestic service between Hawaiian ports and U.S. Gulf ports.

Dated: July 17, 1968.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 68-8660; Filed, July 18, 1968;
8:48 a.m.]

C4 TROOPSHIPS

Notice of Allocation

In F.R. Doc. 68-6067 appearing in the FEDERAL REGISTER issue of May 21, 1968 (33 F.R. 7500), notice was given that pursuant to the Ship Exchange Act (section 510(d) of the Merchant Marine Act, 1936, as added by Public Law 86-575 and amended by Public Law 89-254, 46 U.S.C. 1160(i)), three C4 troopships, owned by the United States of America, represented by the Secretary of Commerce, acting by and through the Maritime Administrator, were available for trade-out to non-subsidized American flag steamship op-

erators in exchange for their older and less efficient ships in accordance with the terms therein stated.

In response to the notice, two companies filed applications proposing conversions for a total of six troopships.

On the basis of a review of the applications received in relation to the criteria for assignments of the available troopships as stated in the notice, the three C4 troopships have been assigned by the Acting Maritime Administrator as follows:

Applicant	Name of ship	Fleet
Sea-Land Service, Inc.	General A. W. Brewster.	Suisun Bay.
Do	General C. H. Muir.	Do.
Do	General E. T. Collins.	Do.

Conditions of assignment. The assignments of the above-mentioned ships are approved subject to the applicant agreeing to the following conditions:

(a) The applicant must qualify for the ship exchanges in accordance with the provisions of the Ship Exchange Act, Public Law 86-575 and Public Law 89-254, and with the requirements of General Order 92 (27 F.R. 2011).

(b) The applicant must accept the ship assignments within 10 days and enter into ship exchange contracts within 60 days after the receipt of notice of assignment. Each assignment is contingent upon the execution of a shipyard contract or commitment for the proposed conversion and the completion of financing both as approved by the Maritime Administration no later than the time of execution of the ship exchange contract; evidence of firm commitment and date upon which the ship will be placed in a shipyard and date upon which the actual work is to commence in the shipyard; the posting with the Maritime Administration of a certified cash deposit of \$50,000 per ship. The deposit shall be applied as a credit to the applicant under the contract. Should the applicant fail to enter into a ship exchange contract within such 60-day period the said \$50,000 deposit per ship shall be retained by the Maritime Administration as liquidated damages. The allocations are also contingent upon the applicant meeting all other requirements for the exchange of ships.

(c) In the event the applicant fails to meet the aforesaid requirements the allocation will automatically be canceled and the ships will be immediately offered for trade-out to all unsubsidized operators by a notice of availability published in the FEDERAL REGISTER.

(d) The Maritime Administration, without obligation to the applicant, reserves the right to cancel, in whole or in part, any of the above assignments prior to the execution of an exchange contract, if it determines that it would be in the public interest to do so, or that the applicant is not proceeding promptly or in good faith to comply with the conditions of the assignments.

(e) Each ship exchange contract will contain provisions requiring that the applicant complete the conversion of the C4 ship substantially in accordance with plans approved by the Maritime Administration within 12 months after execution of the ship exchange contract, unless additional time is granted by the Maritime Administration for good cause. Each exchange contract will provide that in the event the applicant fails to complete the conversion within the time stipulated, there shall become due and payable liquidated damages in the sum of \$1,000 per day for failure to complete the conversion and should this default continue for a period of more than 60 days, the exchange contract will be subject to termination at the option of the Maritime Administration in which event title and possession of the C4 ship will be returned to the U.S. Government, without obligation to the applicant.

(f) The assignments of ships are conditioned upon the ships being taken for title by the applicant or a closely related company, and for the conversions to be financed without aid from a subsidized company or affiliate thereof.

Dated: July 17, 1968.

By order of the Acting Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 68-8661; Filed, July 18, 1968;
8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 68-84]

PORTION OF MARE ISLAND STRAIT, NAPA RIVER, CALIF.

Closure to Navigation During Launching of the "Guitarro (SSN 665)"

JULY 15, 1968.

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 49 CFR 1.4 (32 F.R. 5606) and Executive Order 10173 as amended by Executive Orders 10277, 10352, and 11249, I hereby affirm for publication in the FEDERAL REGISTER the order of C. R. Bender, Rear Admiral, U.S. Coast Guard, Commander, 12th Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

PORTION OF MARE ISLAND STRAIT, NAPA RIVER, CALIF.

Pursuant to the request of the Commander, San Francisco Bay Naval Shipyard, U.S. Navy, and acting under authority of the Act of June 15, 1917 (40 Stat. 220) as amended, and the regulations in Part 6, Chapter I, Title 33, Code of Federal Regulations, I hereby order that the waters of Mare Island Strait, Napa River, Calif., between the Mare Island Causeway (38°06'44"

N. 122°16'14.5" W. to 38°06'36" N., 122°16'32" W.) and a line extending in the direction 245° true from the end of the Naval Reserve Pier, Vallejo, Calif. (38°05'36.5" N., 122°15'22" W.) to the opposite shore of the Napa River (38°05'32" N., 122°15'35" W.) be closed to all persons and vessels on Saturday, July 27, 1968, from 1545, P.d.s.t., until after the U.S.S. *Guitarro* (SSN 655) takes the water and is alongside the seawall at San Francisco Bay Naval Shipyard, after the launching of said vessel. The southern line of demarcation is otherwise described as a line extending between the end of the Naval Reserve Pier, Vallejo, and the southernmost smokestack in the area of Mare Island generally opposite said pier. Limits of this area will be clearly posted by signs and by Coast Guard Patrol Boats.

All persons and vessels are directed to remain outside of the closed area. This order will be enforced by the Captain of the Port, San Francisco, Calif., and by U.S. Coast Guard vessels under his command. Personnel, facilities, and equipment of other Federal, State, and municipal agencies may be utilized to assist in the enforcement of this order.

Penalties for violation of the above order: Section 2, Title II of the Act of June 15, 1917, as amended, 50 U.S.C. 192, provides as follows:

"If any owner, agent, master, officer or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this Title, or obstructs or interferes with the exercise of any power conferred by this Title or if any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this Title, or knowingly obstructs or interferes with the exercise of any power conferred by this Title, he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than \$10,000."

Dated: July 15, 1968.

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

[F.R. Doc. 68-8581; Filed, July 18, 1968;
8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 17657 etc.]

EXECUTIVE JET AVIATION, INC.

Notice of Second Prehearing Conference

Notice is hereby given that a second prehearing conference in the above-entitled matter is assigned to be held on July 30, 1968, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

In order to facilitate the conduct of the conference, parties are instructed to submit to the examiner and other parties on or before July 25, 1968 (1) proposed statements of issues; (2) proposed stipulations; (3) requests for informa-

tion; (4) statement of positions of parties; and (5) proposed procedural dates.

Dated at Washington, D.C., July 16, 1968.

[SEAL]

MILTON H. SHAPIRO,
Hearing Examiner.

[F.R. Doc. 68-8589; Filed, July 18, 1968;
8:47 a.m.]

[Docket No. 19970]

LLOYD INTERNATIONAL AIRWAYS, LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on August 16, 1968, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner James S. Keith.

Dated at Washington, D.C., July 15, 1968.

[SEAL]

THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-8590; Filed, July 18, 1968;
8:47 a.m.]

[Docket No. 19078 etc.]

NORTHEAST CORRIDOR VTOL INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 9, 1968, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner E. Robert Seaver.

In order to facilitate the conduct of the conference, parties are instructed to submit to the examiner and other parties (1) proposed statements of issues, (2) proposed stipulations, (3) requests for information, (4) statement of positions of parties, and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before August 16, 1968, and other parties on or before August 30, 1968. The material should be received by those dates.

It will contribute substantially to the success of the first stage of the proceeding if each participant will either file in advance or be prepared to discuss at the conference the special problems it believes should be considered and in a general way the type information, plans and data that are presently in its hands, and the research it intends to pursue in preparation for the hearing.

Dated at Washington, D.C., July 15, 1968.

[SEAL]

THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-8591; Filed, July 18, 1968;
8:47 a.m.]

[Docket No. 19472]

NORTHWEST AIRLINES, INC., AND PAN AMERICAN WORLD AIRWAYS, INC.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on August 5, 1968, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Edward T. Stodola.

In order to facilitate the conduct of the conference interested parties are instructed to submit to the examiner and other parties on or before August 1, 1968, (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of positions of parties; and (5) proposed procedural dates.

Dated at Washington, D.C., July 15, 1968.

[SEAL]

THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-8592; Filed, July 18, 1968;
8:47 a.m.]

PACIFIC AIR FREIGHT, INC.

Notice of Application for Tariff-Filing Authority Pickup and Delivery Zone

JULY 15, 1968.

In accordance with Part 222 (14 CFR Part 222) of the Board's economic regulations (effective June 12, 1964), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 20036, from Pacific Air Freight, Inc., Colman Building, Seattle, Wash. 98104, for authority to provide true pickup and delivery service of air freight shipments between Charlotte, N.C., and Heath Springs and Lancaster, S.C.

Under the provisions of § 222.3(c) of Part 222, interested persons may file an answer in opposition to or in support of this application within fifteen (15) days after publication of this notice in the FEDERAL REGISTER. An executed original and 19 copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and include such economic data and facts as are relied upon, and shall be served upon the applicant and state the date of such service.

[SEAL]

HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-8593; Filed, July 18, 1968;
8:47 a.m.]

[Docket No. 17296]

SATURN AIRWAYS, INC., AND HOWARD J. KORTH

Notice of Proposed Approval

Petition of Saturn Airways, Inc., and Howard J. Korth respecting possible control relationships involving AAXICO Sales, Inc., Docket 17296.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the order set forth below under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., July 15, 1968.

[SEAL]

A. M. ANDREWS,

Director,

Bureau of Operating Rights.

ORDER APPROVING CONTROL RELATIONSHIPS

Issued under delegated authority.

On April 10, 1968, Saturn Airways, Inc. (Saturn), and Howard J. Korth filed an amended petition which superseded an earlier pleading filed by the same parties. The amended petition was supplemented by a filing made on June 18, 1968. Petitioner's request either a disclaimer of jurisdiction or approval of possible control relationships involving the air carrier, Mr. Korth and AAXICO Sales, Inc. (Sales). Additionally, applicants request that if the Board asserts jurisdiction and concludes that interlocking relationships exist, such relationships be approved under section 409.

Mr. Korth owns 76.5 percent of Saturn's outstanding and issued stock and prior to October 1967, he and his immediate family owned approximately 93 percent of Sales' outstanding and issued stock. Sales is an aircraft parts supplier. In 1967, Mr. and Mrs. Howard Korth disposed of their stock interest in Sales and Mrs. Korth resigned her directorship in Sales.

According to petitioners, since its inception management of Sales has been vested in James Korth. He was loath to continue managing the company unless he obtained legal control as a predicate for bringing his sons into the business and thereby assuring their future. At present Mr. and Mrs. James E. Korth own approximately 51 percent of Sales' stock; Howard Korth's four children own approximately 46 percent of the company's stock and William Korth, a brother of Howard, holds the remaining shares.

As a result of the stock sales, James Korth owes his brother Howard \$46,332 due in three equal installments in 1968, 1969, and 1970. Sales owes Howard Korth \$306,200 evidenced by three notes due in 1968, 1969, and 1970. All of the above notes bear interest at a rate of 4 percent.

Howard Korth is employed by Sales as a sales executive and in 1967 received a salary of \$21,667. Petitioners assert that because of Mr. Korth's wide contacts in the airline business, he has obtained business for Sales and that many of the company's present customers were obtained by Mr. Korth.

Howard Korth formed Sales in 1952 and transferred to it the bulk of AAXICO Airlines' (AAXICO) spare parts inventory.¹ Since its

creation Sales has had direct business dealings with AAXICO and currently with Saturn. From the time of its establishment through 1961, at no time did the dollar amount of transactions between AAXICO and Sales exceed 2.5 percent of Sales' total revenues. However, beginning in 1962 and through 1967, the percentage of Sales' total revenues obtained from the air carrier ranged from a low of 6.9 percent in 1966 to a high of 13.15 percent in 1963 with an 8.3 percentage in 1967. In 1966, the payments made by Saturn to Sales represented 1.08 percent of Saturn's payments for goods and services while in 1967 the percentage was 1.27. Aside from aircraft parts transactions, Sales performs a variety of administrative and technical services for the air carrier at no cost to Saturn.

In support of their position that Howard Korth does not control Sales, petitioners note that Mr. and Mrs. James Korth hold more than 50 percent of Sales' stock and that the company's articles of association and bylaws require only a majority vote for all corporate action. Moreover, Florida corporate law places no restrictions on the right of the majority stockholders to control the company. Petitioners also assert that Saturn is not a large enough customer of Sales to control the latter's affairs.

Petitioners also assert that they are entitled to the statutory exemption from section 408(a) provided for in section 408(c).² The basis for this contention is that Sales' activities are one of the major services performed by Saturn—the purchase, sale, and lease of aircraft equipment and spare parts.

No objection to the application or requests for hearing have been received.

Notice of intent to dispose of the petition without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Two threshold questions of jurisdiction are raised by petitioners: (1) Howard Korth, a person controlling an air carrier has not acquired control of Sales, a person engaged in a phase of aeronautics otherwise than as an air carrier; and (2) assuming a control relationship is present, such relationship qualifies for the statutory exemption from section 408(a) provided for by section 408(c). We turn first to the contention that Howard Korth does not control Sales. On the facts of record the Board would not be warranted in concluding that Howard Korth does not control Sales. The Board recognizes that a majority of Sales' stock is owned by Mr. and Mrs. James Korth and that pursuant to the company's articles of incorporation and bylaws and under Florida law, full dominion and control of the company is vested in the majority stockholders. However, the courts and the Board have long recognized that the existence of a control relationship does not rest solely on the possession of a majority stock interest.³ The Board also has held that

² Section 408(c) provides: "the provisions of this section and section 409 shall not apply with respect to the acquisition or holding by any air carrier, or any officer or director thereof, of (1) any interest in any ticket office, landing area, hangar, or other ground facility reasonably incidental to the performance by such air carrier of its services, or (2) any stock or other interest or any office or directorship in any person whose principal business is the maintenance or operation of any such ticket office, landing area, hangar, or other ground facility."

³ For example, *Rochester Tel. Corp. v. U.S.*, 307 U.S. 125, 145 (1939); *Railroads, Control-Northeast Airlines, Inc.*, 4 C.A.B. 379, 381 (1943); and *Pan American-National Agreement Investigation*, 31 C.A.B. 198, 228 (1960).

the ability to exercise substantial influence in the affairs of another is control within the meaning of section 408.⁴ With these precepts in mind and in view of all the pertinent facts of record, it is concluded that petitioners have not established that Howard Korth does not control Sales within the meaning of section 408 of the Act. Thus, in light of the large block of Sales' stock held by Howard Korth's children,⁵ the substantial indebtedness of both Sales and James Korth to Howard Korth, the historic business relationships between the carrier and Sales, the fact that the carrier is a substantial customer of Sales, and also that Howard Korth has in the past and presently is the source of much of Sales' business, it may be that Howard Korth is able to exercise substantial influence in the affairs of Sales.

We also conclude that the exemption from section 408(a) provided for in section 408(c) does not appear to be applicable to the subject relationship. To begin with Sales' principal business activity is an aircraft parts supplier. Consequently, it is questionable whether the company is a ground facility within the meaning of section 408(c). Additionally, while Saturn is a substantial customer of Sales, that company's business is by no means limited to transactions with the air carrier. Thus, it may be that Sales' activities are not reasonably incidental to the performance by Saturn of its services. Finally, although section 408(c) by its terms applies to the holding by an air carrier or an officer or director thereof of any interest in a ground facility, the section does not literally cover a person controlling an air carrier such as Howard Korth.

However, the Board need not resolve the matter at this time since it will approve the acquisition of control of Sales by Howard Korth, a person controlling an air carrier, subject to an appropriate condition.⁶ The control of Sales by Mr. Korth while he controls Saturn does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in a monopoly and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing and it is found that hearing is not required in the public interest. The essential problem posed by relationships like those under consideration is that because of the absence of arms-length bargaining due to the control of both companies by the same person, the Board cannot assure itself of the fairness of transactions between the companies.

In this instance, however, approval of the relationship appears warranted. Although purchases by Saturn from Sales represents a not insignificant percentage of Sales' total revenue, in absolute terms such purchases are not large. During the past 3 years, the dollar amount of transactions ranged between \$77,500 and \$82,000 and for the last 2 years Sales supplied approximately 1 percent of the total goods and services purchased by Saturn. Furthermore, a substantial amount of the parts transactions relate to the carrier's DC-6 equipment. Consequently, as the carrier upgrades its fleet and disposes of its DC-6 equipment, the amount of intercompany transactions should diminish. Under these circumstances the Board

⁴ *Transocean-Atlas Interlocking Relationships*, 29 C.A.B. 622, 643 (1959); and *Pan Am. Airways, Acquisition of China National*, 6 C.A.B. 143, 146 (1944).

⁵ Standing alone, the fact that two of Mr. Korth's children have reached their majority is not significant.

⁶ It has been decided not to enforce the doctrine expressed in *Sherman Control and Interlocking Relationships*, 15 C.A.B. 876 (1952) with respect to this transaction but to determine the petition on its merits.

¹ On Nov. 5, 1965, AAXICO was merged into Saturn with the latter as the surviving corporation. Orders E-22680 and E-22856.

has decided to approve the relationship subject to the condition that there shall be no transactions between Saturn and Sales in any calendar year which either individually or in the aggregate exceed \$100,000 without prior Board approval.¹

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the foregoing control relationships should be approved pursuant to section 408(b) of the Act without a hearing, subject to the conditions noted below.

Accordingly, it is ordered:

1. That the control of Sales by Howard Korth, a person controlling an air carrier, be and it hereby is approved subject to the condition that there shall be no transactions between Saturn and Sales in any calendar year which either individually or in the aggregate exceed \$100,000 without prior Board approval;

2. That jurisdiction in this proceeding be and it hereby is retained for the purpose of taking such further action as may be required in the public interest; and

3. That, except to the extent above granted, the petition be and it hereby is denied.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof has been filed, or the Board gives notice that it will review this order on its own motion.

[SEAL]

HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-8594; Filed, July 18, 1968;
8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 16258, etc.; FCC 68-711]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Memorandum Opinion and Order Regarding Tariff Investigation

In the matter of American Telephone and Telegraph Co. and the Associated Bell System Companies, charges for interstate and foreign communication service, Docket No. 16258; in the matter of American Telephone and Telegraph Co., charges, practices, classifications, and regulations for and in connection with teletypewriter exchange service, Docket No. 15011; in the matter of American Telephone and Telegraph Co., Long Lines Department, Revisions of Tariff FCC No. 260, private line services series, 5000 (TELPAC), Docket No. 18128.

1. The Commission has under consideration the revised tariff schedules filed by American Telephone and Telegraph Co. and the associated Bell System companies on March 25, 1968, under its Transmittal No. 10069 increasing

¹ In light of approval of the control relationships, any interlocking relationship within the purview of section 409 which exists will be entitled to the exemption provided for by § 287.3(e) of the Board's economic regulations.

TELPAC charges, and the order issued April 12, 1968 (FCC 68-388), in Docket No. 18128 suspending the effectiveness of such revised schedules and instituting an investigation into their lawfulness. It also has under consideration a petition filed March 25, 1968, by Air Transport Association (ATA) and certain other parties wherein consolidation of the proceedings in Docket Nos. 16258 and 18128¹ is requested. Our order of April 12, 1968, specifically deferred consideration of the requested consolidation. Respondents oppose such a consolidation in Docket No. 16258 but express no objection to consideration of TELPAK rate levels, rate structure and sharing provisions in one proceeding but separate from No. 16258. Aeronautical Radio, Inc. (ARINC), and Eastern Air Lines, Inc., support the request of ATA for consolidation. The Western Union Telegraph Co. requests that the Commission proceed with dispatch in the determination of Phase 1-B of Docket No. 16258; that it order the balance of the TELPAK revisions filed at that time; and that it then institute such other proceedings as may be necessary to consider the TELPAK rates. Certain of the petitions under consideration have requested suspension of the revised TELPAK tariff schedules, and to that extent they have been granted by our order of April 12, 1968, in Docket No. 18128 (FCC 68-388). However, that order left open the question of an accounting order.

2. Docket No. 16258, which we shall refer to as the General Investigation, embraces Respondents' total interstate and foreign services pursuant to our order of October 27, 1965 (2 FCC 2d 871, 30 F.R. 13885). For administrative convenience, we specified a two-phase proceeding in that docket (order adopted Dec. 22, 1965, 2 FCC 2d 142). We described the scope of the first phase as follows:

¹ We have under consideration the following pleadings pertinent to the action taken herein:

(a) "Petition for Suspension, Investigation and Hearing on TELPAK Tariff Increases, and for Consolidation with Current Hearings on TELPAK Sharing Provisions and Compensatory Nature of present TELPAK Rates," filed by Air Transport Association of America on March 25, 1968, in Docket Nos. 16258, 15011, and 17457.

(b) "Petition of The Secretary of Defense for Suspension and Investigation, and for an Accounting Order," filed by Department of Defense on Apr. 2, 1968.

(c) "Petition for Suspension, Investigation, and other Relief," filed by Aeronautical Radio, Inc., on Apr. 5, 1968.

(d) "Reply to Petition for Suspension," filed by American Telephone and Telegraph Co. on Mar. 28, 1968.

(e) "Statement in Support of Petition for Consolidation of Current Hearings on TELPAK Sharing Provisions and Compensatory Nature of Present TELPAK Rates," filed by Eastern Airlines, Inc., on Apr. 9, 1968.

(f) "Response to Petition for Consolidation," filed by American Telephone and Telegraph Co. on Apr. 10, 1968.

(g) "Reply to Petitions for Suspension, Investigation, and Hearing of TELPAK Tariff Increases and for Consolidation with Current Hearings on TELPAK Sharing Provisions," filed by The Western Union Telegraph Co. on Apr. 10, 1968.

Accordingly, in Phase 1 of this proceeding, the Commission will consider Respondents' total revenue requirements applicable to their interstate and foreign communication services, and the relevant ratemaking principles and factors that shall control in the distribution of such revenue requirements among Respondents' principal rate classifications. It is desirable that such structural adjustments as may be necessary be achieved on an interim basis within the framework of as sound and reasonable a base of total revenue requirements as it is possible to determine pending resolution of all the issues raised by this proceeding * * *.

It was also therein ordered that upon completion of Phase 1, i.e., the completion of the presently scheduled hearings, the Commission would give consideration to what, if any, interim rate adjustments should be ordered on the basis of the record as then developed. Also, in our memorandum opinion and order adopted December 22, 1965 (2 FCC 2d 142), we stated as follows:

In connection with Respondents' presentations as to the appropriate rate-making principles and factors which should govern the proper relationships among the rate levels for each of their principal services, Respondents shall take into consideration the wide variations in level of earnings revealed by the aforementioned seven-way cost study. Respondents shall indicate the specific rate adjustments, if any, which they consider should be made on an interim basis in the light of such study results and the rate-making principles and factors advocated by them.

By our Interim Decision and Order of July 5, 1967, we disposed of portions of the Phase 1 issues concerning Respondents' total revenue requirements. We are currently considering the issue of "rate-making principles and factors," and this has frequently been referred to as Phase 1-B.

3. In the course of the hearings, Respondents have filed the following revised tariff schedules providing for substantial increases in their rates.

Transmittal No.	Subject	Original effective date
Jan. 9, 1967; 9467	Private line telephone and telegraph, including teletypewriter equipment.	May 1, 1967
Feb. 1, 1968; 10001	TELPAC	Apr. 1, 1968
Feb. 1, 1968; 10002	Audio and video	Apr. 1, 1968
Mar. 25, 1968; 10069	TELPAC	June 1, 1968

The effective date of the increase in teletypewriter equipment rates and the audio and video program transmission rates have been postponed by Respondents to August 1, 1968, and April 1, 1969, respectively. The TELPAK rate filing of February 1, 1968, has been withdrawn and superseded by a lesser increase proposed to be effective June 1, 1968, which has been suspended until September 1, 1968, by our order instituting Docket No. 18128. We shall refer to all of these as "proposed" rates even though they are not all included in filed tariffs.

4. Respondents take the position that their proposed tariff rates are supported by cost and marketing studies, the results

of which they have presented in Phase 1-B of Docket No. 16258. With respect to TELPAK, Respondents also contend that their studies support the increased rates filed on February 1, 1968, but subsequently withdrawn when they substituted what they characterize as "intermediate step" rates.

5. In view of the pleadings before us, we have reexamined the scope and objectives of Phase 1-B with due regard for developments which have occurred since the inception of these proceedings, including the revised rates filed or proposed by Respondents; the nature of the evidence that Respondents have thus far submitted in response to the Phase 1-B issues; and the pendency of related proceedings such as Docket No. 17457 (TELPAK Sharing) and Docket No. 18128 (TELPAK rates).

6. As we have previously indicated from time to time, the issues involved in Phase 1-B are intended and have been designed to establish a basis for the formulation of principles which should govern the establishment and maintenance of overall rate levels for each of Respondents' interstate services. Stated differently, we seek to determine in Phase 1-B the broad revenue objectives that are to be met by the rates for a given classification of service in terms of its contribution to the total interstate revenue requirements of Respondents. The consolidations urged by Petitioners would, in our opinion, defeat these objectives by encumbering Docket No. 16258 with the separable and time-consuming task of examining and passing upon the propriety of the internal design or detailed components of the rate structure of a particular class of service.

7. Respondents, in response to the issues in Phase 1-B, have provided evidence with respect to the economic and other considerations relative to the pricing policies they believe should govern the formulation of rate levels for their several classes of services. They have also provided data relative to the costs of providing their principal services. Such cost data have been derived on alternative bases reflecting different approaches to a determination of the relevant costs for each of the services. In addition, Respondents have provided data relative to marketing conditions and the pricing policies indicated thereby for certain of their services and as noted above, Respondents have filed increased rates which they contend are justified by their showing. The other parties in this proceeding, however, have not yet presented their evidence with respect to these matters. It is our expectation that upon completion of the record in Phase 1-B in these respects, the Commission will be in a position to prescribe appropriate principles or guidelines for the determination of the over-all revenue objectives that are to be met by Respondents in the design of each of their principal rate classifications. It is also our intention to determine the extent to which each of the existing or proposed rate classifications accord with, or fall short of, meeting those principles and

guidelines, and, if the latter, the nature of the corrective action that should be taken. Again, we stress that we deem it neither necessary nor practical, in the interest of a timely and effective resolution of the issues in Phase 1-B, to treat or to prescribe the internal design or components of each rate classification, but shall limit our consideration to the overall design or rate levels of such classification in terms of the reasonable revenue contribution that it is to make to the total interstate revenue requirements of Respondents.²

8. Thus, with respect to Respondents' rates for TELPAK service, including those now under suspension and investigation in Docket No. 18128, we will determine in Phase 1-B of Docket No. 16258 whether competitive or other valid considerations justify the pricing discrimination existing in the TELPAK offering; and, if so, whether Respondents' existing or proposed rates for TELPAK will make an appropriate contribution to Respondents' total interstate revenue requirements.³ These determinations with respect to the revenue objectives appropriate to TELPAK and other services are, in our opinion, of threshold essentiality to a determination of the reasonableness and lawfulness of the specific rates and rate relationships within the individual rate structures. It is also our opinion that we can arrive at these threshold determinations without simultaneously resolving all other questions.

9. We recognize that the resolution of the issues in Docket No. 17457 regarding TELPAK sharing may have an effect upon the market for TELPAK services on the basis of which Respondents have calculated their costs of furnishing such services, which costs have been presented by Respondents in Docket No. 16258 in purported justification of their proposed revised TELPAK rates. This, in turn, could have a substantial impact on the overall level and revenue yield of TELPAK rates as well as the propriety of the internal rate components of the TELPAK schedule. As we noted in our order in Docket No. 17457 (FCC 63-389) concerning TELPAK sharing, we expect the presiding officer to employ all reasonable means to expedite that proceeding, and also expect the Chief, Common Carrier Bureau to issue a recommended decision at the earliest possible date. Thus, the proceedings in Docket No. 17457 and those in Docket No. 16258 will be going forward in parallel. We will, therefore, defer hearings in Docket No. 18128 concerning the internal specifics of the TELPAK rate structure until the rate principles determinations are made

²For example, while we shall consider the revenue effect of rate or structural changes proposed by Respondents, such as the change in the telegraph channel equivalency ratio of the TELPAK tariff, we will not determine or prescribe on this record the proper ratio that should be employed or prescribe individual rate components.

³This will also include consideration of the effects of the rates on competition within the common carrier industry.

in Docket No. 16258 and the sharing issue is decided in Docket No. 17457.

10. Because TELPAK service is, in essence, a rate classification within the family of private line services offered by Respondents, appropriate consideration of the reasonableness of TELPAK rates requires simultaneous and coordinate consideration of Respondents' private line tariffs. Accordingly, our order herein will specify the issues in Docket No. 18128 to embrace all of the private line tariffs, except audio and video program transmission services, but including the charges for teletypewriter station equipment. In this connection we note that these substantial increases in charges for such teletypewriter equipment are now filed to become effective August 1, 1968. We are unable to determine whether such increased charges are or will be just and reasonable or otherwise lawful; and, if such increased charges are permitted to become effective on the date specified, the rights and interests of the public may be adversely affected thereby. Accordingly, we will suspend their operation for the statutory period.⁴ Insofar as Docket No. 16258 is concerned, of course, the revenue contribution of all interstate and foreign services are in issue.

11. In view of our temporary deferral of hearings in Docket No. 18128, it is increasingly important that the proper rate-making principles and factors be determined in Docket No. 16258 as expeditiously as possible. While we are confident the proceeding has progressed with commendable speed, we are nevertheless directing the Hearing Examiner to take all feasible measures to achieve the earliest closing of the evidentiary record on this particular issue. We also expect that in presenting evidence in Docket No. 16258, the parties will be guided by this memorandum opinion and order and that, accordingly, their presentations will be limited to the issue of the appropriate guidelines and principles which should govern the overall contribution that individual services are to make to the total interstate revenue requirements of Respondents.

12. In our previous order issued April 12, 1968, suspending the proposed TELPAK tariff schedules, we reserved for future determination the question as to whether we should impose an accounting order herein. We have reconsidered this matter, on our own motion, and are of the opinion that the public interest requires that such an accounting order be entered.

Accordingly, it is ordered, That pursuant to sections 201, 202, 204, 205, and 403 of the Communications Act of 1934, as amended, the Commission shall enter upon a hearing and investigation in Docket No. 18128 concerning the lawfulness of the private line tariff schedules listed in the appendix hereto, as well as

⁴Several parties have filed petitions requesting suspension of these charges to which AT&T has not yet responded. Accordingly, we have not considered such petitions but have acted on our own motion.

those which were the subject of our order released April 12, 1968 (FCC 68-388), and any amendments, cancellations, or successive issues thereof effected during the pendency of the investigation; and

It is further ordered, That pursuant to section 204 of the Communications Act of 1934, as amended, the operation of the tariff schedules listed in the appendix as becoming effective August 1, 1968, is hereby suspended, unless otherwise ordered by the Commission, until November 1, 1968, and that during said period of suspension no changes shall be made in said tariff schedules or in the charges sought to be altered thereby unless authorized by special permission of the Commission; and

It is further ordered, That without in any way limiting the scope of the investigation of both groups of the aforementioned tariff schedules, it shall include consideration of the following matters:

(1) Whether any such tariff schedules will subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable preference or advantage to any person, class of persons, or locality, or subject any person, class of persons, or locality to any undue or unreasonable prejudice, or disadvantage within the meaning of section 202(a) of the Communications Act of 1934, as amended; and

(2) Whether any of the charges, classifications, regulations, or practices contained in such tariff schedules are or will be unjust and unreasonable within the meaning of section 201(b) of the Communications Act of 1934, as amended; and

(3) Whether the Commission should prescribe just and reasonable charges, classifications, regulations, and practices or the maximum or minimum or maximum and minimum charges to be hereafter followed with respect to the services governed by the subject tariff schedules and, if so, what charges, classifications, regulations, and practices should be prescribed.

It is further ordered, That, in the event a decision as to the lawfulness of all the provisions suspended has not been made during the suspension period, and said increased charges, practices, classifications, and regulations go into effect, the American Telephone and Telegraph Co. (AT&T) and its connecting and concurring carriers shall, until further ordered by the Commission, keep accurate account of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision therein the Commission may by further order require the refund thereof, with interest, pursuant to section 205 of the Communications Act of 1934, as amended, and the carrier shall file with the Commission a report on or before the 10th day of each calendar month, commencing December 10, 1968, showing the amounts accounted for as aforesaid during the previous calendar month; and

It is further ordered, That a copy of this order be filed in the offices of the Commission with said tariff schedules

herein suspended; that AT&T and all carriers listed in its Tariff FCC No. 260 as concurring carriers with respect to matters contained in the tariff schedules suspended are hereby made parties respondent to this proceeding; and that a copy hereof be served upon each Respondent, upon the agency of each State and the District of Columbia which has regulatory jurisdiction with respect to communications rates and services and the National Association of Regulatory Utility Commissioners; and

It is further ordered, That hearings in Docket No. 18128 are deferred until further order of the Commission; and

It is further ordered, That the petition of Air Transport Association filed March 25, 1968, insofar as it requests consolidation of Docket No. 18128 with Docket No. 16258 is denied.

It is further ordered, That all of the petitions noted as under consideration herein are granted to the extent indicated herein, and in all other respects are denied.

Adopted: July 10, 1968.

Released: July 16, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX

1. Charges To Be Investigated. The investigation discussed in paragraph 10 of the basic memorandum opinion and order pertains to those charges set forth in American Telephone and Telegraph Co.'s Tariff FCC No. 260, Private Line Service, except those charges pertaining to Series 6000 and Series 7000 services.

2. List of Tariff Schedules Containing Teleprinter Equipment Rate Increases Suspended Herein.

American Telephone and Telegraph Co. Tariff FCC No. 260:

Page	Revision	Nos.	Page	Revision	Nos.
181...	2d	4th	196...	5th	9th
182...	1st	3d	197...	5th	8th
183...	1st	3d	210...	1st	4th
184...	5th	9th	211...	3d	6th
185...	3d	7th	212...	3d	6th
186...	7th	10th	213...	1st	3d
187...	4th	9th	214...	1st	4th
188...	4th	7th	215...	2d	6th
188.1...	2d	5th	216...	4th	9th
189...	4th	6th	217...	4th	9th
190...	5th	7th	218...	2d	4th
191...	1st	3d	218.1...	Original	2d
192...	1st	3d	219...	1st	3d
193...	6th	10th	221...	10th	14th
194...	5th	11th	222.2...	4th	8th
195...	4th	7th			

[F.R. Doc. 68-8595; Filed, July 18, 1968; 8:47 a.m.]

[Docket No. 18247; FCC 68-709]

ROBERT LEE BRANTLEY

Order Designating Application for Hearing on Stated Issues

In re application of Robert Lee Brantley, Greenville, N.C., Docket No. 18247, File No. 01130-CD-66, for radio station license in the Citizens Radio Service.

*Commissioner Cox concurring in the result.

1. The Commission has under consideration an application for a Class D station license in the Citizens Radio Service filed by Robert Lee Brantley, Greenville, N.C.

2. Information coming to the attention of the Commission raises substantial questions concerning the qualifications of the applicant, Robert Lee Brantley, to be a licensee. It will, therefore, be necessary to hold an evidentiary hearing to resolve those questions.

3. Accordingly, it is ordered, Pursuant to section 309(e) of the Communications Act of 1934, as amended, and § 1.793(b) of the Commission's rules, that the captioned application is designated for hearing in Washington, D.C., at a time and place to be specified by subsequent order upon the following issues:

(1) To determine whether Robert Lee Brantley, during the period between July and October 1965, or on any other dates participated in activities designed to threaten, harass, intimidate, or cause bodily harm to others.

(2) To determine the facts and circumstances surrounding the issuance, on November 17, 1965, of a warrant charging Robert Lee Brantley with Assault With Deadly Weapon.

(3) To determine the facts and circumstances surrounding the issuance on November 16, 1965, of a warrant charging John Teel with Assault With Deadly Weapon.

(4) To determine whether Robert Lee Brantley was found by Pitt County Recorder's Court, on February 8, 1966, to have impaired and defeated the orderly process of law and to be uncooperative, disrespectful, and offensive to standards of good citizenship and morals and adjudged to be in Contempt of Court.

(5) To determine whether, during the period between July 1965, and the present, Robert Lee Brantley operated a radio transmitter using radio frequencies assigned to the Citizens Radio Service without a station license, in violation of section 301 of the Communications Act.

(6) To determine Robert Lee Brantley's need for, and proposed use of, the requested radio facilities.

(7) To determine whether Robert Lee Brantley possesses the character qualifications to be a licensee of the Commission.

(8) To determine, in light of the evidence adduced pursuant to any or all of the foregoing issues, whether a grant of the captioned application would serve the public interest, convenience, and necessity.

4. *It is further ordered*, That the burden of proof on all issues will be on the applicant, Robert Lee Brantley, although the Chief, Safety and Special Radio Services Bureau will have the burden of proceeding with the introduction of evidence on issues (1), (2), (3), (4), and (5).

5. *It is further ordered*, That to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the

Commission, in triplicate, a written appearance stating an intent to appear on the date to be fixed for hearing and present evidence on the issues specified in this order.

Adopted: July 10, 1968.

Released: July 15, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-8596; Filed, July 18, 1968;
8:47 a.m.]

[Docket No. 17929; FCC 68-710]

**EASTERN AIR LINES, INC., AND
AMERICAN TELEPHONE AND
TELEGRAPH CO.**

**Memorandum Opinion and Order
Instituting Hearing**

In the matter of Eastern Air Lines, Inc., New York, N.Y., Complainant v. American Telephone and Telegraph Co., New York, N.Y., Defendant.

1. We have before us a complaint for reparations filed December 13, 1967, by Eastern Air Lines, Inc. (complainant), pursuant to section 208 of the Act; an answer to that complaint filed January 19, 1968, by American Telephone and Telegraph Co. (A.T. & T.); and a reply to the answer filed by complainant on January 29, 1968.

2. Complainant seeks \$19,147.47 in alleged overcharges for teletypewriter station equipment which A.T. & T. furnished to complainant under A.T. & T.'s Private Line Service Tariff FCC No. 260 during the period of July 12, 1966, through August 19, 1966.

3. The essential facts appear undisputed. Because of a labor strike in its organization, complainant requested suspension of what it refers to as its "teletypewriter service" during the aforementioned period. Complainant was a customer of A.T. & T. for TELPAK channels. These TELPAK channels are officially designated in the A.T. & T. tariff as "Series 5000 channels." In addition, complainant obtained teletypewriters from A.T. & T. and these teletypewriters were used by complainant in connection with these Series 5000 (TELPAK) channels. It is to these teletypewriters used with Series 5000 channels that complainant refers when it uses the term "teletypewriter service." Complainant contends that upon its request for suspension of its "teletypewriter service," A.T. & T. was obligated under its tariff to charge only one-half of its normal charge for such teletypewriters. A.T. & T. contends that it was obligated to make the full charge for such teletypewriters. Complainant makes no claim that it is entitled to lower than normal charges for the Series 5000 (TELPAK) channels during the period in question. Its claim for reparations goes only to the charges for teletypewriter equipment used in connection with such channels.

4. We are here concerned with the proper interpretation and construction

of a provision of the Private Line Service tariff of A.T. & T. (No. 260) that permits customers to save money by requesting suspension of certain private line services for a period of 2 weeks to 6 months in lieu of canceling the service entirely. The tariff provides that, during the period of any suspension permitted by the tariff, there is no charge for the interexchange channels, station connections, bridging connections, drop service, or channel terminals and there is a 50 percent reduction in the normal charge for other components of the service such as local channels and equipment.

5. The full text of the tariff provision in question is as follows:

2.4.6 Suspension of Service.

(A) Upon request of the customer, service, except service involving the furnishing of overseas, Series 5000 or Series 7000 channels, those portions of service to which charges are applicable for discontinuance prior to the expiration of a specified period, or services used in conjunction with common control switching arrangements will be suspended without cancellation at any time after the initial month of service, subject to (1), (2), and (3) below.

(1) Service will be suspended for a period of not less than 2 weeks and not more than 6 months.

(2) No charge applies during the period of suspension for interexchange channels, station connections, bridging connections, drop service, and channel terminals except those terminals for which a separate rate applies for Press, those furnished for Type 4001 channels and those furnished by this Company's concurring, or concurring and connecting carriers where the total interexchange channel mileage of the private line is 25 airline miles or less.

(3) One-half of the charge that would apply if the service were not suspended applies during the period of suspension for local channels, local channel extensions, Washington Metropolitan Area channels, equipment, other items and those channel terminals for which a separate rate applies for Press, those furnished for Type 4001 channels, and those furnished by this Company's concurring or concurring and connecting carriers where the total interexchange channel mileage of the private line is 25 airline miles or less.

6. As stated in the above-quoted tariff provision, there are certain private line services that may not be suspended in lieu of cancellation. One of these exceptions, in the language of the tariff, is "service involving the furnishing of * * * Series 5000 * * * channels" (2.4.6 (A)). Complainant's position is that the furnishing of teletypewriters to it for use in connection with Series 5000 channels is a service involving the furnishing of "teletypewriters" and is not a service involving the furnishing of "channels." Therefore, complainant contends that the service of furnishing teletypewriters is not within the exception. A.T. & T.'s position, on the other hand, is that the furnishing of such teletypewriters is service "involving" the furnishing of such channels and is, therefore, included in the exception. Complainant points to the above-quoted language in 2.4.6(A) (3) that states that "one-half of the charge that would apply if the service were not suspended applies during the period of suspension for * * * equipment

* * * and claims that "the service" in the instant case is that of furnishing the teletypewriters in question and not that of furnishing Series 5000 channels, whereas A.T. & T. contends that the term "the service" refers to the entire service of Series 5000 channels plus the teletypewriter equipment used therewith.

7. Our task is to determine whether the above-quoted tariff language may be reasonably interpreted as complainant interprets it. If so, complainant prevails under well-settled rules of tariff construction. In making this determination we shall examine this language in the context of the tariff as a whole including definitions of terms that are set forth in the tariff.

8. A "channel" is defined in the tariff as "a path (or paths) for electrical communication between two or more stations or Telephone Company offices" (2.5). From this definition, it is clear that the furnishing of a "channel" does not include the furnishing of teletypewriter station equipment used in connection with a channel. In addition, the term "Series 5000 channels" is defined as follows:

This series applies only to those channels and services which the customer has specifically ordered to be furnished as Series 5000 channels and services under this tariff. (3.2.5(A))

The tariff goes on to state that this Series "provides Base Capacity for transmitting various forms of electrical communication" and that "within the limits of a Base Capacity the customer may order as many wideband and/or individual channels or lesser capacity arranged for use as he requires" (3.2.5(A)). Thus, it seems clear that, by further definition, the furnishing of "Series 5000 channels" does not include the furnishing of teletypewriter station equipment associated therewith.

9. Under A.T. & T.'s Tariff FCC No. 260 the telephone company makes a separate offering of teletypewriters at rates separate from the channel rates. This offering is independent of the kind of channels to which such equipment is to be connected. For example, the same teletypewriter station equipment may be used interchangeably in connection with not only Series 5000 channels but other series of channels such as the Series 1000 channels. The divisibility of the offering of teletypewriter station equipment, on the one hand, and the offering of Series 5000 channels, on the other hand, is further evidenced by the provision in the tariff that either the customer or the telephone company may provide teletypewriter station equipment used in connection with any channels provided by the telephone company. Therefore, the telephone company offers to furnish Series 5000 channels either with or without associated teletypewriter station equipment used in connection therewith.

10. In view of the foregoing, we believe that the above-quoted language purporting to state which services do not have the privilege of suspension is ambiguous and that one reasonable construction of

the language in the tariff that excepts "service involving the furnishing of * * * Series 5000 * * * channels" is that the exception applies only to the furnishing of the Series 5000 Base Capacity and the individual channels derived therefrom and not to the furnishing of teletypewriter equipment associated with those or any other channels provided by the telephone company. The telephone company argues that the excepting language should be construed as excepting not only the provision of Series 5000 channels but also the "equipment associated with that service, including Eastern Airlines teletypewriter equipment." However, the company's tariff does not say this. This may have been the intent of the company, but, if so, that intent is not clearly expressed in the tariff as required by our rules which provide that tariffs shall contain "Such explanatory statements in clear and explicit terms regarding the rates and regulations contained in the tariff as may be necessary to remove all doubt as to their proper application" and that "complicated or ambiguous terms shall not be used," 47 CFR 61.33 (f) and (h).

11. The tariff definition of "Private Line Service" does not help to remove the aforementioned ambiguity. According to this definition "Private Line Service is the furnishing of Telephone Company facilities for communication between specified locations continuously or for regularly recurring periods at stated hours. Facilities may be those of the Telephone Company only or those of the Telephone Company and Other Participating Carriers." (Sec. 2.1.1) From this definition it appears that "the service" involved herein could be either the teletypewriter facilities obtained by complainant since they were used for communication between specified locations, or the Series 5000 channels, since they were also used for that purpose, or both.

12. Moreover, interpreting the tariff as we do achieves a more reasonable result. To interpret the tariff as does A.T. & T. would raise substantial question of the lawfulness of such a provision because one user of teletypewriter equipment connected to a teletypewriter grade channel priced at the ordinary private line rate could obtain a 50 percent lower charge for such equipment than would another user of the same equipment connected to the same teletypewriter grade channel priced at the TELPAK rate. Our interpretation results in the charges for the same teletypewriter equipment performing the same function being uniform among all users irrespective of whether such equipment is used in connection with channels priced at TELPAK rates or ordinary private line rates.

13. We conclude that complainant was required to pay only one-half of the normal charges for the teletypewriter equipment furnished to complainant under A.T. & T.'s Tariff FCC No. 260 during the period of July 12, 1966, through August 19, 1966, and that the matter should be designated for evidentiary hearing on the single issue of the amount of damages due to complainant

consistent with our opinion herein. We also conclude that the ambiguity we have found to exist should be removed by revised tariff language that will state unequivocally which services or components thereof are subject to suspension and which ones are not, 47 CFR 61.33 (f) and (h). In view of our disposition of this case, we do not reach complainant's alternative contentions that sections 201(b) and 202(a) are violated if the tariff is to be construed unfavorably to complainant.

14. *Accordingly, it is ordered*, That, pursuant to the provisions of section 203 and sections 206-209 of the Communications Act of 1934, as amended, a public hearing shall be held at a time and place to be hereinafter designated upon the following specific issue: The amount of damages, if any, that the complainant may be entitled to as a result of charges collected by the defendant for the period of July 12, 1966, through August 19, 1966, in excess of what we have found herein to be applicable under the schedules of charges lawfully on file with the Commission.

15. *It is further ordered*, That a copy of this Memorandum Opinion and Order shall be served upon the complainant and the defendant herein.

16. *It is further ordered*, That a hearing examiner shall be designated to preside in the complaint proceedings ordered herein, who shall prepare an initial decision on the issue herein as provided in § 1.267 of the Commission's rules.

17. *It is further ordered*, That, within 30 days after the service of this order, defendant shall file tariff revisions on not less than 30 days' notice which shall remove the ambiguity we have found to exist in § 2.4.6 of defendant's Tariff FCC No. 260 and which shall be in full compliance with the requirements of Part 61 of our rules.

Adopted: July 10, 1968.

Released: July 16, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-8597; Filed, July 18, 1968;
8:47 a.m.]

[Docket No. 10834, etc.; FCC 68M-1054]

FLORIDA-GEORGIA TELEVISION CO., INC., ET AL.

Order Scheduling Hearing Sessions for Miami, Fla.

In re applications of Florida-Georgia Television Co., Inc., Jacksonville, Fla., Docket No. 10834, File No. BPCT-1624; Community First Corp., Jacksonville, Fla., Docket No. 17582, File No. BPCT-3681; The New Horizons Telecasting Co., Inc., Jacksonville, Fla., Docket No. 17583, File No. BPCT-3731; Florida Gateway Television Co., Jacksonville, Fla., Docket No. 17584, File No. BPCT-3732; for construction permit for new television broadcast station. Wometco Enterprises, Inc., Miami, Fla., Docket No. 18185, File No. BRCT-95; for renewal of license of television station WTVJ. Wometco Skyway

Broadcasting Co., Asheville, N.C., Docket No. 18186, File No. BRCT-313; for renewal of license of television station WLOS-TV.

The Chief Hearing Examiner having under consideration a motion in behalf of Antwin Theaters, Inc., filed July 2, 1968, that a portion of the hearings in the above-entitled proceeding be held in Miami, Fla.;

It appearing, that the motion has the support of the Commission's Broadcast Bureau but it is opposed by Wometco Enterprises, Inc., and Wometco Skyway Broadcasting Co.;

It appearing further that there have been consolidated for hearing in this proceeding the AM and TV license renewal applications of the Wometco applicants, and it is in regard to the development of evidence under an issue of anticompetitive activities directed to these applicants that the moving party pleads the necessity for hearings in Miami, Fla., where the prospective witnesses reside and numerous records "which will be involved" are located;

It appearing further that while it is appropriate to authorize hearing sessions in Miami, Fla., for the limited purpose of receiving evidence under the anticompetitive issue, all concerned are expected to cooperate to the fullest extent possible with the view to completing these sessions within a period not to exceed 5 days:

Accordingly, it is ordered, That the motion is granted and that hearing sessions in this proceeding are authorized to be held in Miami, Fla., commencing on a date to be designated by the presiding Hearing Examiner.

Issued: July 15, 1968.

Released: July 15, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] JAMES D. CUNNINGHAM,
Chief Hearing Examiner.

[F.R. Doc. 68-8598; Filed, July 18, 1968;
8:47 a.m.]

[Docket No. 18249; FCC 68M-1050]

NORMAN I. SNODGRASS

Order Scheduling Hearing

In the matter of Norman I. Snodgrass, 5340 72 Court, Summit, Ill. 60501, order to show cause why the license for radio station KRJ-6362 in the Citizens Radio Service should not be revoked:

It is ordered, That James D. Cunningham shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on September 4, 1968, at 10 a.m.; *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: July 12, 1968.

Released: July 15, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] JAMES D. CUNNINGHAM,
Chief Hearing Examiner.

[F.R. Doc. 68-8599; Filed, July 18, 1968;
8:47 a.m.]

FEDERAL MARITIME COMMISSION

AUSTRALIA, NEW ZEALAND, AND
SOUTH SEA ISLANDS PACIFIC
COAST CONFERENCENotice of Agreement Filed for
Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763; 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. J. R. Harper, Secretary, Australia, New Zealand, and South Sea Islands Pacific Coast Conference, 635 Sacramento Street, Room 330, San Francisco, Calif. 94111.

Agreement 7580-7, between member lines of the Australia, New Zealand, and South Sea Islands Pacific Coast Conference, proposes the amendment of Article 3-C of the basic agreement (7580, as amended), to increase the amount of the admission fee for new members from \$250 (two-hundred and fifty dollars) to \$1,000 (one thousand dollars).

Dated July 15, 1968.

By order of the Federal Maritime Commission,

FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 68-8576; Filed, July 18, 1968; 8:46 a.m.]

PORT OF OAKLAND ET AL.

Notice of Agreement Filed for
Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New

York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. J. Kerwin Rooney, Port Attorney, Port of Oakland, 66 Jack London Square, Oakland, Calif. 94607.

Agreement No. T-2193 between the Port of Oakland (Oakland) and Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd. (the Lines) is a lease of certain premises at Oakland's Seventh Street Terminal which the Lines will use solely as a truck and rail terminal for distributing cargo to and from trucks, rail cars, and containers. Rental will be a fixed monthly sum for the land, plus an additional sum for the truck and rail terminal. Provision is made for an adjustment in rent for the terminal, dependent upon actual construction costs. The agreement includes an option to lease an additional area of 1.327 acres, for which right the Lines will pay \$1,011 per year. In the event the option is exercised an additional rental will be assessed. The Lines are granted the right to enter upon the leased premises prior to approval of this agreement by the Federal Maritime Commission subject to certain conditions, including applicable provisions of Oakland's tariff.

Dated: July 15, 1968.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 68-8577; Filed, July 18, 1968; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on April 19, 1968.¹

System open market operations until the next meeting of the Committee shall be conducted with a view to achieving firmer but maintaining orderly conditions in the money

¹ The Record of Policy Actions of the Committee for the meeting of Apr. 19, 1968, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

market, while facilitating market adjustments to the increase in Federal Reserve discount rates.

Dated at Washington, D.C., the 12th day of July 1968.

By order of the Federal Open Market Committee.

KENNETH A. KENYON,
Assistant Secretary.

[F.R. Doc. 68-8580; Filed, July 18, 1968; 8:46 a.m.]

SMALL BUSINESS
ADMINISTRATION

REGENT INVESTMENT CORP.

Notice of Filing of Application for
Transfer of Control of Licensed
Small Business Investment Com-
pany

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations Governing Small Business Investment Companies (13 CFR Part 107, 33 F.R. 326) for transfer of control of Regent Investment Corp., 1615 Bonanza Street, Walnut Creek, Calif. 94596, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), License No. 12/12-0113.

Regent Investment Corp. was licensed on March 19, 1964, with a paid-in capital and surplus of \$304,500. Its present capital and surplus is \$454,500. It has 450,000 shares of issued and outstanding common stock held by five stockholders.

The following individuals have offered to purchase all the capital stock of this Licensee owned by the other three stockholders:

Richard B. Backe, 1672 Foothill Park Circle, Lafayette, Calif.

John S. Morken, 360 Pickering Place, Walnut Creek, Calif.

Each of the proposed transferees will own 10 or more percent of the capital stock. The principal office of the Licensee will remain in Walnut Creek, Calif. The offer is subject to and contingent upon the approval of the new ownership and management by SBA.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners and the probability of successful operation of the company under their control and management (including adequate profitability and financial soundness) in accordance with the Act and Regulations.

Notice is further given that any interested party may, no later than fifteen (15) days from the date of this publication, submit in writing, relevant comments on the proposed transfer of control. Any such communication should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the proposed transferees in a newspaper of general circulation in the Walnut Creek, Calif., and San Francisco, Calif. areas.

Dated: July 11, 1968.

For SBA (pursuant to delegated authority).

GLENN R. BROWN,
Associate Administrator
for Investment.

[F.R. Doc. 68-8572; Filed, July 18, 1968;
8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-3173, etc.]

HUSKY OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates¹

JULY 11, 1968.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 5, 1968.

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 all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however*, That pursuant to § 2.56, Part 2, statement of general policy and interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of

an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to ac-

cept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-3173- E 6-25-68	Husky Oil Co. (successor to The Frontier Refining Co.), Post Office Box 350, Cody, Wyo. 82414.	El Paso Natural Gas Co., Fulcher Kutz Pictured Cliffs Pool and West Kutz Pictured Cliffs Pool, San Juan County, N. Mex.	12.045375	15.00
G-14908- D 6-24-68 ¹	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001.	Shell Oil Co., Provident City Field, Lavaca County, Tex.	Assigned	
G-17254- E 6-25-68	Husky Oil Co. (successor to The Frontier Refining Co.).	El Paso Natural Gas Co., Gallegos Gallup Pool, San Juan County, N. Mex.	12.0495	15.00
G-17780- E 6-25-68	do	do	13.053025	15.00
G-18726- D 6-21-68	Mobil Oil Corp.	Transwestern Pipeline Co., acreage in Ellis County, Okla.	(?)	
C190-86- E 6-25-68	Harry W. Brennan, Jr. (successor to Alton Coats et al.), 508 Petroleum Bldg., Longview, Tex. 75601.	United Gas Pipe Line Co., Bethany Field, Harrison County, Tex.	4.9, 6.216	14.00
C161-1130- E 6-25-68	Husky Oil Co. (successor to The Frontier Refining Co.).	El Paso Natural Gas Co., Basin Dakota Pool, San Juan County, N. Mex.	12.045375	15.00
C161-1140- E 6-25-68	do	do	13.0495	15.00
C161-1327- D 6-21-68 ¹	Mobil Oil Corp.	Cities Service Gas Co., Guymon-Hugoton (Deep) Field, Texas County, Okla.	Assigned	
C162-414- E 6-25-68	Husky Oil Co. (successor to The Frontier Refining Co.).	El Paso Natural Gas Co., Angels Peak Gallup Pool, San Juan County, N. Mex.	12.045375	15.00
C162-673- C&D 6-26-68	Skylark Gas Co., 219 East Main St., St. Clairsville, Ohio 43050.	Equitable Gas Co., acreage in Lewis, Harrison and Upshur Counties, W. Va.	25.0	15.00
C163-150- D 7-1-68	Sunray DX Oil Co., Post Office Box 2030, Tulsa, Okla. 74102.	Northern Natural Gas Co., acreage in Beaver County, Okla.	Declined in pressure	
C163-628- E 6-25-68	Husky Oil Co. (successor to The Frontier Refining Co.).	El Paso Natural Gas Co., East Bar-X Area, Mesa County, Colo.	13.5	15.00
C163-815- E 6-24-68	Elcor Chemical Corp. (successor to National Fuels Corp.), 1300 V & J Tower, Midland, Tex. 79701.	Lone Star Gas Co., Tailgate of Madill Plant, Marshall County, Okla.	15.0	14.00
C163-1230- 6-10-68 ¹	Southern Minerals Corp., Post Office Box 716, Corpus Christi, Tex. 78403.	Northern Natural Gas Co., North Puckett Field, Pecos County, Tex.	15.0	14.00
C165-97- E 6-25-68	Husky Oil Co. (successor to The Frontier Refining Co.).	Northern Natural Gas Co., Shapley (Morrow) Field, Hansford County, Tex.	17.0	14.00
C165-808- (G-1717) C 6-25-68 ¹	James W. Harris (Operator), et al., 236 Bldg., 236 East Capitol St., Jackson, Miss.	United Gas Pipe Line Co., Gwinville Field, Jefferson Davis County, Miss.	17.0	15.00
C165-1145- C 6-24-68	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	Arkansas Louisiana Gas Co., Cameron Field, Le Flore County, Okla.	15.0	14.00
C167-1647- C 6-27-68	Cleary Petroleum, Inc., 310 Kermae Bldg., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., North Hopeton Field, Woods County, Okla.	15.0	14.00
C168-1302- A 6-14-68	Wilcox-Henry, c/o Thom H. Green, geologist, Suite 660, 2121 South Columbia, Tulsa, Okla. 74114.	Continental Compressor Corp., Parsell South (Cherokee) Field, Roberts County, Tex.	2.0	14.75
C168-1395- A 6-14-68	David Beach, trustee, c/o KWB Oil Property Management, Inc., 1125 National Bank of Tulsa Bldg., Tulsa, Okla. 74103.	do	2.0	14.75
C168-1439- A 6-27-68	John H. Hill, 100 Southland Center, Dallas, Tex. 75201.	Northern Natural Gas Co., Mocane Field, Beaver County, Okla.	17.0	14.00
C168-1440- (G-5716) F 6-20-68	J. M. Huber Corp. (successor to Northern Natural Gas Producing Co. et al.), 2401 East Second Ave., Denver, Colo. 80206.	Northern Natural Gas Co., North Holt Field, Seward County, Kans.	16.74	14.00
C168-1441- B 6-26-68	J. M. Huber Corp.	Natural Gas Pipeline Co. of America, Camrick Field, Beaver County, Okla.	Depleted	
C168-1442- A 6-26-68	Graham-Michaels Drilling Co., 302 Graham Bldg., 211 North Broadway, Wichita, Kans. 67202.	Michigan Wisconsin Pipe Line Co., Cedardale Southwest Chester Field, Woodward County, Okla.	19.5	14.00
C168-1443- (C167-179) A&F 6-26-68 ¹	Cities Service Oil Co., Cities Service Bldg., Bartlesville, Okla. 74003.	United Gas Pipe Line Co., Crescent Farms Field, Terrebonne Parish, La.	21.25	15.00
C168-1444- (G-12750) F 6-20-68	Southwest Oil Industries, Inc. (successor to Helmerich & Payne, Inc.), 801 First National Bldg., Oklahoma City, Okla.	Colorado Interstate Gas Co., Mocane Laverne Field, Beaver County, Okla.	17.0	14.00

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

¹This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI68-1445 F 6-20-68	Southwest Oil Industries, Inc. (successor to Estate of John W. Henry et al.)	Colorado Interstate Gas Co., Mocane Laverne Field, Beaver County, Okla.	17.0	14.65
CI68-1446 (G-12578) F 6-20-68	Southwest Oil Industries, Inc. (successor to Marathon Oil Co.)	do.	17.0	14.65
CI68-1447 (G-18748) F 6-20-68	Southwest Oil Industries, Inc. (successor to Sinclair Oil & Gas Co.)	El Paso Natural Gas Co., Mocane Laverne Field, Beaver County, Okla.	17.0	14.65
CI68-1448 A 6-27-68	Kern County Land Co., c/o John E. Watson, attorney, Post Office Box 2511, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America Blocks 225 and 229 Fields, West Cameron Area, Offshore Louisiana.	20.0	15.025
CI68-1449 A 6-27-68	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Block 165 Field, West Cameron Area, Offshore Louisiana.	20.0	15.025
CI68-1450 A 6-28-68	Pennzoil United, Inc. ¹⁴ Post Office Drawer 1588, Parkersburg, W. Va. 26101.	United Fuel Gas Co., Rocky Fork Field, Kanawha County, W. Va.	27.5	15.325
CI68-1452 A 6-28-68	Pubco Petroleum Corp., Post Office Box 889, Albuquerque, N. Mex. 87103.	Southern Natural Gas Co., South Marrero Field, Jefferson Parish, La.	21.25	15.025
CI68-1453 A 6-28-68	Samuel Gary, 1700 Broadway, Denver, Colo. 80202.	Montana-Dakota Utilities Co., Bell Creek Gas Plant, Power River County, Mont.	15.384	15.025
CI69-1 B 7-1-68	Petroleum, Inc., 300 West Douglas, Wichita, Kans. 67202.	Kansas-Nebraska Natural Gas Co., Inc., acreage in Seward County, Kans.	Depleted	
CI69-2 A 7-1-68	Diamond Shamrock Corp., Post Office Box 631, Amarillo, Tex. 79105.	Colorado Interstate Gas Co., acreage in Sweetwater County, Wyo.	15.09	14.65
CI69-3 A 7-1-68	Kendall-Davis Drilling Co., Inc. (Operator), et al., 2 Court Bldg., Evansville, Ind. 47708.	Texas Gas Transmission Corp., Elk Creek Field, Hopkins County, Ky.	15.0	15.025
CI69-4 A 7-1-68	Oklahoma Natural Gas Co., 624 South Boston Ave., Tulsa, Okla. 74119.	Panhandle Eastern Pipe Line Co., Northwest Aledo Field, Dewey County, Okla.	17.0	14.65
CI69-5 A 7-1-68	Sunray DX Oil Co., Post Office Box 2039, Tulsa, Okla. 74102.	Northern Natural Gas Co., Orth Field, Rice County, Kans.	16.0	14.65
CI69-6 A 7-1-68	do.	Colorado Interstate Gas Co., Bass "D" Unit, Beaver County, Okla.	17.0	14.65
CI69-8 (G-17090) F 6-26-68	Alkman Bros. Corp. (successor to Roland S. Bond), 706 Bank of the Southwest Bldg., Amarillo, Tex. 79109.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	17.0	14.65
CI69-9 F 6-27-68 ¹⁵	Tom Brown Drilling Co., Inc. (Operator) et al. (successor to Shell Oil Co.), Post Office Box 5706, Midland, Tex. 79701.	Northern Natural Gas Co., Ozona Northeast (Canyon 7,520') Field, Crockett and Schleicher Counties, Tex.	16.5	14.65
CI69-10 F 6-10-68 ¹⁶	United Production Co. (successor to Maynard Oil Co.), Post Office Box 508, Wichita Falls, Tex. 76307.	Natural Gas Pipeline Co. of America, Boonsville (Bend Conglomerate, Gas), Field, Wise County, Tex.	16.25	14.65
CI69-11 (CI65-620) F 6-24-68	Micoa, Inc. (successor to Hydrocarbon Chemical, Inc.), c/o John S. Holy, attorney, Post Office Box 643, Weston, W. Va. 26452.	Cumberland and Allegheny Gas Co., Washington District, Upshur County, W. Va.	23.0	15.325
CI69-12 A 7-2-68	Erving Wolf, d.b.a. Wolf Exploration Co., 308 Lincoln Tower Bldg., Denver, Colo. 80202.	Mountain Fuel Supply Co., South Baggs Area, Carbon County, Wyo., and Moffat County, Colo.	15.0	15.025
CI69-17 (C866-49) F 7-1-68	Pan American Petroleum Corp. (successor to Thornton Oil Co. ²⁰).	Northern Natural Gas Co., Ozona (Canyon Sand) Field, Crockett County, Tex.	16.0	14.65

¹⁴ Deletes acreage assigned to Robert Burke, Trustee.

¹⁵ Rate in effect subject to refund in Docket No. RI64-139.

¹⁶ Due to insufficient reserves Buyer refuses to connect well to system.

¹⁷ Includes 0.1216-cent tax reimbursement.

¹⁸ Rate in effect subject to refund in Docket No. RI64-320.

¹⁹ Certificate issued to CRA, Inc., Operator.

²⁰ Applicant applied for a small-producer certificate in Docket No. C868-39 as a result of a misinterpretation of the small-producer regulations and now requests that the certificate in Docket No. C868-39 be terminated and that the certificate heretofore issued in Docket No. CI63-1239 be reinstated.

²¹ Adds acreage acquired from Gulf Oil Corp.

²² Subject to deduction for compression and/or treating costs, should Buyer compress or treat gas.

²³ Subject to upward and downward B.t.u. adjustment.

²⁴ After Continental Compressor Corp. has been paid for cost of equipment and pipeline, the price will be raised for Applicants to 10.5 cents per Mcf, less taxes.

²⁵ Includes 0.74-cent upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.

²⁶ Applicant proposes to initiate sales from heretofore undedicated acreage and from undeveloped acreage dedicated to General American Oil Company of Texas FPC GRS No. 79. Sales from the latter acreage was authorized by a temporary certificate issued in Docket No. CI67-179.

²⁷ Formerly Pennzoil Co.

²⁸ A deduction of 5 cents per Mcf of gas delivered and sold to Buyer shall be made until Buyer has been fully reimbursed for unamortized capital costs in Buyer's transmission line facility.

²⁹ Includes 0.9-cent upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.

³⁰ Subject to upward B.t.u. adjustment.

³¹ Partially succeeds Shell Oil Co.'s FPC GRS No. 335.

³² Partially succeeds Maynard Oil Co.'s FPC GRS No. 3.

³³ Formerly Rodman Oil Co.

[F.R. Doc. 68-8571; Filed, July 18, 1968; 8:45 a.m.]

[Docket No. G-9314 etc.]

AMERADA PETROLEUM CORP. ET AL.

Findings and Order After Statutory Hearing; Correction

JULY 10, 1968.

Amerada Petroleum Corp. and other Applicants listed herein, Docket No. G-9314, et al.; Theda E. Boyd et al., d.b.a. Boyd & Shriver et al., Docket No. CI68-669.

In findings and order after statutory hearing issuing certificates of public convenience and necessity, canceling docket numbers, amending certificates, permitting and approving abandonment of service, terminating certificates, terminating rate proceeding, making successors co-respondents, redesignating proceedings, requiring filing of agreement and undertaking, requiring filing of surety bond, and accepting related rate schedules and supplements for filing, issued January 23, 1968, and published in the FEDERAL REGISTER February 1, 1968 (F.R. Doc. 68-1131), 33 F.R. 2466, Docket No. G-9314, et al., 8th column: Change Applicant's name to read "Theda E. Boyd, et al., d.b.a. Boyd & Shriver, et al." in lieu of "Boyd & Shriver, et al."

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-8565; Filed, July 18, 1968; 8:45 a.m.]

[Docket No. CP69-3]

EL PASO NATURAL GAS CO. Notice of Application

JULY 12, 1968.

Take notice that on July 8, 1968, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP69-3 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the transportation of natural gas for direct sale and delivery to American Magnesium Co. (Magnesium) for use in its activities to be conducted near Snyder, Scurry County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that Magnesium has undertaken the construction of certain facilities to be utilized for the production of magnesium, chlorine, and chlorides and has requested a supply of natural gas from Applicant for use as fuel in dehydrating a brine solution and for firing a magnesium melting furnace.

Applicant proposes to provide Magnesium's natural gas requirements on a firm basis, of up to 13,500 Mcf per day and, on a best efforts basis, of such further quantities as Magnesium shall request.

Specifically, Applicant seeks authorization to construct and operate the following:

(1) Approximately 1 mile of 6 $\frac{3}{8}$ -inch O.D. pipeline, with necessary appurtenances, commencing at a point of connection with Applicant's 12 $\frac{3}{4}$ -inch Goldsmith-to-Snyder pipeline and extending northwesterly to a point of termination at Applicant's proposed measuring and regulating station.

(2) A measuring and regulating station, with necessary appurtenances, located in Scurry County, Tex.

Total estimated cost of the proposed facilities is \$45,318, which cost will be financed from 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 August 9, 1968.

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. 68-8567; Filed, July 18, 1968;
8:45 a.m.]

[Docket No. CP69-4]

EL PASO NATURAL GAS CO.

Notice of Application

JULY 12, 1968.

Take notice that on July 8, 1968, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP69-4 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in Pinal County, Ariz., and the sale and delivery of natural gas to Arizona Public Service Co. (Public Service) for resale to Kennecott Copper Corp. (Kennecott) for use as fuel

in its copper mining and production activities conducted near Ray, Ariz., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The Applicant states that both it and Public Service have undertaken a joint project to provide natural gas supplies to Kennecott for use as fuel in its electrowinning and leaching plant now under construction.

Specifically, Applicant seeks authorization to construct, own, and operate the following facilities: (1) Approximately 6.3 miles of 8 $\frac{3}{8}$ -inch O.D. loop pipeline on Applicant's 8 $\frac{3}{8}$ -inch O.D. Tucson Station-to-San Manuel pipeline; (2) a meter station adjacent to Applicant's 8 $\frac{3}{8}$ -inch Hayden Crossover pipeline; and (3) approximately 12.6 miles of 4 $\frac{1}{2}$ -inch O.D. pipeline extending northerly from Applicant's proposed meter station, all in Pinal County, Ariz.

Total estimated cost of the proposed facilities is \$421,782, which cost will be financed by working funds, supplemented as necessary by short-term loans.

The estimated maximum daily and annual natural gas requirements of Public Service to provide the proposed service to Kennecott during the third full year of operation are 2,256 Mcf and 658,000 Mcf, respectively.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before August 9, 1968.

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 with 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. 68-8568; Filed, July 18, 1968;
8:45 a.m.]

[Docket No. CP68-366]

HUMBLE GAS TRANSMISSION CO.

Notice of Application; Correction

JULY 12, 1968.

In notice of application, issued July 3, 1968, and published in the FEDERAL REGISTER July 11, 1968 (F.R. Doc. 68-

8199), 33 F.R. 9980, Docket No. CP68-366, Line 6: Change "section 7(c)" to read "section 7(b)".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-8569; Filed, July 18, 1968;
8:45 a.m.]

[Docket No. RI68-693, etc.]

SHELL OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

JULY 10, 1968.

Shell Oil Co., et al., Docket No. RI68-693 et al.; Sunset International Petroleum Corp., Docket No. RI68-696.

In Order providing for hearings on and suspension of proposed changes in rates, issued June 26, 1968, and published in the FEDERAL REGISTER July 6, 1968 (F.R. Doc. 68-7942), 33 F.R. 9798, Docket No. RI68-693 et al., Appendix A, Sunset International Petroleum Corp., Docket No. RI68-696: Under column headed "Purchaser and Producing Area:" (opposite Supplement No. 5 to Sunset's FPC Gas Rate Schedule No. 26), change the name of the purchaser from "Southern Union Gas Company" to "Southern Union Gathering Company".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-8566; Filed, July 18, 1968;
8:45 a.m.]

[Docket No. CP69-2]

TENNESSEE GAS PIPELINE CO.

Notice of Application

JULY 12, 1968.

Take notice that on July 5, 1968, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Applicant), Post Office Box 2511, Houston, Tex. 77001, filed in Docket No. CP69-2 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities at Troy, Pa., for the transportation of natural gas, 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 install and operate at Compressor Station No. 317 three 1,000 horsepower compressor units now held in warehouse stock. Applicant states that installation of the additional horsepower will permit increased flexibility of operations in that portion of Applicant's system east of its underground storage fields and will provide additional unallocated peak day capacity which can be made available on short notice in the event a customer has unforeseen increased requirements.

Total estimated cost of installing this additional horsepower is \$473,510, which cost will be financed from general funds or revolving credit.

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 (5 U.S.C. 157.10) on or before August 8, 1968.

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. 68-8570; Filed, July 18, 1968;
8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 16, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41392—*Sugar, beet or cane to Hebco and Sulphur Springs, Tex.* Filed by Trans-Continental Freight Bureau, agent (No. 452), for interested rail carriers. Rates on sugar, beet or cane, in bulk, in carloads, from Serape, Ariz., to Hebco and Sulphur Springs, Tex.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 31 to Trans-Continental Freight Bureau, agent, tariff ICC 1774.

FSA No. 41393—*Lumber and related articles to points in western trunkline territory.* Filed by Southwestern Freight Bureau, agent (No. B-9093), for interested rail carriers. Rates on lumber and related articles, in carloads, from points in Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas; also Mississippi River crossings, to points in Colorado, Illinois, Iowa, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin.

Grounds for relief—Carrier competition.

Tariffs—Supplements 41 and 49 to Southwestern Freight Bureau, agent, tariffs ICC 4641 and 4633, respectively.

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-8602; Filed, July 18, 1968;
8:48 a.m.]

[Notice 649]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 15, 1968.

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 protests 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 2860 (Sub-No. 30 TA), filed July 9, 1968. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: Frank E. Ochletree (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Glass and plastic containers, paper containers, materials and supplies used in the manufacture thereof*, from Mays Landing, N.J., to points in Illinois and Ohio, for 180 days. NOTE: Joinder is possible but applicant does presently intend to avail himself of same. Supporting shipper: Wheaton Plasticote Corp., Mays Landing, N.J. 08330. Attention: Harry Potter, Comptroller. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, 402 East State Street, Trenton, N.J. 08608.

No. MC 61396 (Sub-No. 205 TA), filed July 10, 1968. Applicant: HERMAN BROS. INC., 2501 North 11th Street, Box 189, Downton Station 68101, Omaha, Nebr. 68110. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting:

Cement, in bulk, in tank vehicles, from the barge loading sites of Dundee Cement Co. at Evansville, Ind., to highway construction job near Sebree, Ky., for 180 days. Supporting shipper: Dundee Cement Co., Dundee, Mich. Send protests to: K. P. Kohrs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 116632 (Sub-No. 10 TA), filed July 10, 1968. Applicant: RALPH E. CURTIS & SON, INC., 123 Mount Hope Avenue, Bangor, Maine 04401. Applicant's representative: Frederick T. McGonagle, 36 Main Street, Gorham, Maine 04038. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber*, from Mesardis, Maine, to points in New Hampshire, Vermont, and Massachusetts, for 180 days. Supporting shipper: Anderson and Herrmann Inc., Marian Building, Room 201, 6 Eastman Place, Melrose, Mass. 02176. Send protests to: Donald G. Weller, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, Maine 04112.

No. MC 124770 (Sub-No. 9 TA), filed July 9, 1968. Applicant: TELLERI TRUCKING CO., 301 Allen Street, Elizabeth, N.J. 07202. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, in vehicles equipped with mechanical refrigeration for the account of Allen Packing Co. and Midtown Veal & Mutton Co., Inc., between Linden and Newark, N.J., on the one hand, and, on the other, Philadelphia, Pa., Baltimore and Landover, Md., and Washington D.C., between Newark, N.J., on the one hand, and, on the other, points in Nassau, Suffolk, and Westchester Counties, N.Y., Kingston, Albany, N.Y., and Troy, N.Y., points in Fairfield County, Conn., New Haven and Hartford, Conn., and Boston, Mass., for 180 days. Supporting shippers: The Allen Packing Co., 406 Allen Street, Elizabeth, N.J.; Midtown Veal & Mutton Co., Inc., 37 Legal Street, Newark, N.J. Send protests to: District Supervisor Walter J. Grossmann, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 125760 (Sub-No. 1 TA), filed July 10, 1968. Applicant: GLENN W. MEANS, 1597 Pittsburgh Road, Franklin, Pa. 16323. Applicant's representative: John E. McFate, 229 Elm Street, Oil City, Pa. 16301. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Dairy products such as chocolate milk, oleomargarine, cottage cheese, cottage cheese products, cream cheese, cream cheese products, fruit and water beverages, milk, buttermilk, cream and other products normally sold on wholesale and retail dairy routes when moving in mixed shipments with the aforementioned products*, from Cleveland, Ohio, to points

in Erie County, Pa., for 180 days. Supporting shipper: The Great Atlantic & Pacific Tea Co., Inc., Central Division Headquarters, 3440 Forbes Avenue, Pittsburgh, Pa. 15213. Send protests to: John J. England, District Supervisor, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-8603; Filed, July 18, 1968;
8:48 a.m.]

OFFICE OF EMERGENCY PLANNING ARKANSAS

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Arkansas, dated May 31, 1968, and published June 7, 1968 (33 F.R. 8471), is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major dis-

aster by the President in his declaration of May 29, 1968:

Conway.
Crawford.
Grant.
Greene.
Hempstead.
Jackson.
Lonoke.

Miller.
Phillips.
Poinsett.
Polk.
Pulaski.
Union.
White.

Dated: July 12, 1968.

PRICE DANIEL,
Director,
Office of Emergency Planning.

[F.R. Doc. 68-8563; Filed, July 18, 1968;
8:45 a.m.]

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