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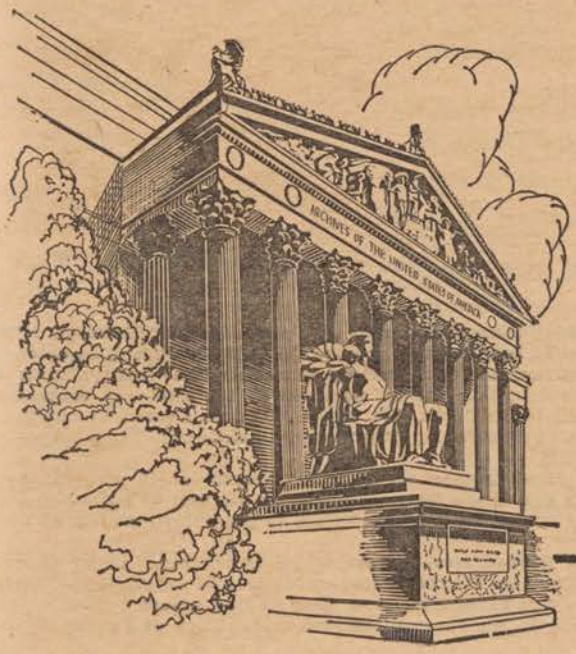


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## Title 7—AGRICULTURE

### Chapter II—Consumer and Marketing Service (Consumer Food Programs), Department of Agriculture

[Amdt. 2]

### PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

#### State Administrative Expenses

Regulations for the operation of the School Breakfast and Nonfood Assistance Programs, as amended (32 F.R. 33, 13215) are hereby amended to include State Administrative Expenses pursuant to the authority contained in section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) as amended by Public Law 90-302 (82 Stat. 119).

### PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

1. The heading of Part 220 is amended to read as set forth above and opening statement, containing the table of contents and authority, of Part 220 are amended to read as follows:

Regulations are hereby issued for the operation of the School Breakfast Program and the Nonfood Assistance Program and for State Administrative Expenses pursuant to the authority contained in the Child Nutrition Act of 1966, Public Law 89-642, 80 Stat. 885, as amended by Public Law 90-302, 82 Stat. 119.

GENERAL



AUTHORITY: The provisions of this Part 220 issued under sec. 10, 80 Stat. 889, 42 U.S.C. 1779.

2. Section 220.1 *General purpose and scope* is amended to read as follows:

**§ 220.1 General purpose and scope.**

Sections 4 and 5 of the Child Nutrition Act of 1966 authorize the apportionment of funds to the States to assist them (a) to initiate, maintain, or expand nonprofit breakfast programs in schools, and (b) to supply schools drawing attendance from areas in which poor economic conditions exist with equipment for the storage, preparation, transportation, and serving of food. Section 7 of the Child Nutrition Act of 1966, as amended by Public Law 90-302, authorizes the appropriation of funds for making advances to State educational agencies for use for administrative expense in supervising and giving technical assistance in connection with additional activities undertaken by them under sections 4 and 5 of the Child Nutrition Act of 1966, and section 11 (Special Assistance) and section 13 (Special Food Service Program for Children) of the National School Lunch Act, as amended. This part announces the policies and prescribes the regulations necessary to carry out the provisions of sections 4, 5, and 7 of the Child Nutrition Act of 1966, as amended.

3. Section 220.3 *Administration of school breakfast and nonfood assistance programs* is amended to read as follows:

**§ 220.3 Administration of school breakfast and nonfood assistance programs and state administrative expenses.**

(a) Within the Department, C&MS shall act on behalf of the Department in the administration of the programs covered by this part. Within C&MS, SLD shall be responsible for administration of the programs.

(b) Within the States, responsibility for the administration of the School Breakfast and Nonfood Assistance Programs in schools shall be in the State Agency, except that CFPDO shall administer the programs in nonprofit private schools of any State where the State Agency is not permitted by law to disburse Federal funds paid to it under the Act to nonprofit private schools. References in this part to "CFPDO where applicable" are to CFPDO as the agency administering the programs in nonprofit private schools.

(c) Each State Agency desiring to take part in any of the programs shall enter into a written agreement with the Department for the administration of the program in the State in accordance with the provisions of this part. Any such agreement shall cover the operation of the program during a period which shall not extend beyond the end of the fiscal year in which the agreement became effective unless the agreement is extended for succeeding fiscal years at the option of the Department.

4. Sections on State Administrative Expenses are added as follows:

STATE ADMINISTRATIVE EXPENSES

**§ 220.19 Allocation of funds to States.**

Funds apropriated for State Administrative expenses under section 7 of the Act shall be allocated to States during each fiscal year on the basis of plans submitted by State Agencies to, and approved by, C&MS. Information as to the program or programs for which these funds are available, and tentative figures of the amount available for each State, shall be supplied by C&MS to each State Agency. To the extent of funds available, the tentative figure for each State Agency shall include a basic minimum amount to be determined by C&MS, calculated on the basis of information available on the salary levels of State food service personnel, plus an amount from the remaining funds appropriated, calculated by dividing three percentum of such remaining funds among Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands on the basis of the number of children aged 3 to 17, inclusive, in each such State and dividing the balance of 97 percentum of such funds among all other States on the basis of the number of children in each such State aged 3 to 17, inclusive, in families with incomes of less than $3,000 per annum. When Federal funds for State administrative expenses are available to C&MS from more than one appropriation account, the makeup of the tentative figure for any State may be from one or more of such accounts, as determined by C&MS. The final allocation of funds to any State shall be based upon the justification therefor contained in the State Agency plan, submitted pursuant to § 220.22 of this part.

**§ 220.20 Payments to States.**

Funds allocated to any State for State administrative expenses shall be made available by means of Letters of Credit issued by C&MS to appropriate Federal Reserve Banks in favor of the State Agency, or directly to the State Agency in the case of the District of Columbia.

Funds representing the basic minimum amount may be made available to the State before approval of the State Agency plan.

**§ 220.21 Use of funds by State Agencies.**

Administrative expense funds paid to any State shall be used by State Agencies to employ additional personnel, as approved in the State Agency plan, to supervise and give technical assistance to local school districts or to service institutions in their initiation, expansion and conduct of any program or programs for which the funds are made available. State Agencies may also use these funds, in an amount approved by SLD in the State Agency plan, for their general administrative expenses in connection with any such program or programs, including travel and related expenses. Additional personnel or part-time personnel hired to give assistance to any such program or programs are expected to meet professional qualifications and to be paid at salary scales of positions of comparable difficulty and responsibility under the State Agency. Personnel may be used on a man-year equivalent basis, thus permitting new personnel and existing staff to be cross-utilized for most effective and economical operation under existing and new programs.

**§ 220.22 State Agency plans.**

(a) Each State desiring to receive State administrative expense funds shall develop and submit a proposed plan to SLD, through CFPDO, justifying the request for funds. Such plan shall include as a minimum the following information:

(1) A brief identification of additional activities to be initiated, expanded, reviewed or serviced, identified by program; (2) the number of additional personnel or part-time personnel needed to assist local school districts or service institutions in the initiation and conduct of such program or programs and to give such program or programs continuing supervisory assistance; (3) the salary levels established for the additional personnel; (4) the amount of travel and per diem funds and related expenses needed by the additional personnel; and (5) the amount of funds needed for general administrative expenses in connection with the additional activities. The plans shall include such additional information as may be requested by SLD to permit an appropriate evaluation and determination of the need for additional staffing and related funds.

(b) In approving State Agency plans, SLD shall indicate the percentage of personnel salary allowable for other administrative expenses (i.e., expenses other than supervisory personnel salaries), if any, and shall inform the State Agency of the amount of the final allocation of funds to the State.

**§ 220.23 Reports and records.**

(a) Each State Agency shall keep records on administrative expenses conforming with the approved State Agency plan, and shall make such records available upon a reasonable request by C&MS or OIG.

(b) Each State Agency shall periodically furnish to SLD, through CFPDO, such reports on progress toward the goals in State Agency plans as may be requested by SLD.

5. Miscellaneous provisions applicable to both programs is amended to read as follows:

MISCELLANEOUS PROVISIONS APPLICABLE TO PROGRAMS AUTHORIZED BY SECTIONS 4, 5, AND 7 OF THE CHILD NUTRITION ACT

6. Existing § 220.19 through 220.24 are redesignated § 220.24 through 220.29 without change.

This amendment shall be effective upon publication in the FEDERAL REGISTER.

NOTE: 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.

Approved: September 23, 1968.

[SEAL] ORVILLE L. FREEMAN,
*Secretary.*

[F.R. Doc. 68-11742; Filed, Sept. 26, 1968; 8:48 a.m.]

## PART 225—SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

Regulations are hereby issued for the operation of the Special Food Service Program for Children pursuant to the authority contained in Public Law 90-302, 82 Stat. 117, which further amended the National School Lunch Act, as amended (42 U.S.C. 1751-1760).

GENERAL



AUTHORITY: The provisions of this Part 225 are issued under sec. 3, 82 Stat. 117; 42 U.S.C. 1761.

GENERAL

**§ 225.1 General purpose and scope.**

Section 13 of the National School Lunch Act, as amended, authorizes the appropriation of funds to enable the Secretary to formulate and carry out a pilot program to assist States through grants-in-aid and other means, to initiate, maintain, or expand nonprofit food service programs for children in service institutions. This part announces the policies and prescribes the regulations under which this pilot program will be carried out. In general, the pilot program embodies two phases: (1) Payments will be made to service institutions at specified rates to reimburse them in connection with costs of obtaining agricultural commodities and other foods for service to children, and (2) payments will be made to service institutions to reimburse them in part for the cost of the purchase or rental of equipment for the storage, preparation, transportation and serving of food to children.

**§ 225.2 Definitions.**

For the purpose of this part the term:

(a) "Act" means the National School Lunch Act, as amended.

(b) "C&MS" means the Consumer and Marketing Service of the U.S. Department of Agriculture.

(c) "CFPDO" means Consumer Food Programs District Office(s), C&MS.

(d) "Children" means persons under 21 years of age who are enrolled for care in a service institution, or who are counselors in a summer program conducted by a service institution.

(e) "Cost of obtaining food" means the cost of obtaining agricultural commodities and other foods for consumption by children. Such costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling any food purchased for or donated to, the Program.

(f) "Department" means the U.S. Department of Agriculture.

(g) "Equipment" means articles (excluding one-time-use items such as paper plates and straws) and facilities, other than land and buildings, for the storage, preparation, transportation, and serving of meals.

(h) "Fiscal year" means a period of 12 calendar months beginning with July 1 of any calendar year and ending with June 30 of the following calendar year.

(i) "Meal" means food which is served to children during their attendance at a service institution and which meets the nutritional requirements set out in this part.

(j) "Milk" means unflavored milk which meets State and local standards for fluid whole milk and flavored milk made from fluid whole milk which meets such standards; and, in those areas of Alaska, Guam, Hawaii, American Samoa, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands where a sufficient supply of fresh fluid whole milk cannot be obtained, shall include recombined or reconstituted whole milk, and, in those areas of American Samoa, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin

Islands where a sufficient supply of fresh fluid whole milk and of recombined or reconstituted whole milk cannot be obtained, shall include reconstituted nonfat dry milk.

(k) "Private nonprofit service institution" means a nonpublic service institution that is exempt from income tax under the Internal Revenue Code, as amended.

(l) "Program" means the Special Food Service Program for Children authorized by section 13 of the Act and operating pursuant to the provisions of this part.

(m) "OIG" means the Office of the Inspector General of the Department.

(n) "SLD" means the School Lunch Division, Consumer Food Programs, C&MS.

(o) "Secretary" means the Secretary of Agriculture.

(p) "Service institution" means a private, nonprofit institution or a public institution, such as a child day-care center, settlement house, or recreation center, which provides day care, or other child care where children are not maintained in residence, for children from areas in which poor economic conditions exist or areas in which there are high concentrations of working mothers. The term "service institution" includes a private, nonprofit institution or a public institution that develops a special summer program providing for children from such areas food service similar to that available to children under the National School Lunch or School Breakfast Programs during the school year, and includes a private, nonprofit institution or a public institution providing day-care services for handicapped children from such areas.

(q) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, or American Samoa.

(r) "State Agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State Superintendent of Public Instruction, Commissioner of Education, or similar officer), or (2) a board of education controlling the State department of education or the educational system of the State.

(s) "State Agency, or CFPDO where applicable" means the State Agency, or CFPDO, whichever is responsible for the administration of the program within the State.

### § 225.3 Administration of the Special Food Service Program for Children.

(a) Within the Department, C&MS shall act on behalf of the Department in the administration of the program. Within C&MS, SLD shall be responsible for administration of the program.

(b) Within the States, responsibility for the administration of the program shall be in the State Agency, except that, if in any State the State Agency is not permitted by law or is otherwise unable to disburse Federal funds apportioned to it under the program to any service institution in the State, CFPDO shall be responsible for administration of the program within such State.

(c) Each State Agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the program in the State in accordance with the provisions of this part. Any such agreement shall cover the operation of the program during the period specified therein, or any extension of such period.

### § 225.4 Apportionment of funds to States.

(a) The Secretary shall apportion any funds appropriated for the purposes of section 13 of the Act for any fiscal year in accordance with the following provisions:

(1) Of the funds so appropriated, the Secretary shall reserve 2 per centum for apportionment to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands. Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall each be apportioned an amount which bears the same ratio to the total of such reserved funds as the number of children aged 3 to 17, inclusive, in each bears to the total number of children of such ages in all of them.

(2) From the remainder of the funds so appropriated, the Secretary shall apportion to each State such sums as he deems appropriate, but not more than $50,000, as a basic grant. In addition, the Secretary shall apportion to each State, from the funds remaining after the basic grants have been made, an amount which bears the same ratio to such remaining funds as the number of children in that State aged 3 to 17, inclusive, in families with incomes of less than $3,000 per annum bears to the total number of such children in all the States. For the purposes of this subparagraph, the term "State" does not include Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b) The Secretary shall withhold all of the funds apportioned to any State for the program if the State Agency is not permitted by law or is otherwise unable to disburse the funds apportioned to it under the Act to any service institution in the State, and the Secretary shall disburse the funds so withheld directly to service institutions in such State.

(c) If any State cannot utilize all funds apportioned to it, or if additional funds are made available for apportionment among the States under this section, the Secretary shall make further apportionments to the remaining States in the same manner as the initial apportionment: *Provided, however,* That the Secretary may determine the minimum amount of such funds it is practicable to so apportion.

### § 225.5 Payments to States.

Funds apportioned to any State under § 225.4 and not withheld by the Secretary shall be made available by means of Letters of Credit issued by C&MS to appropriate Federal Reserve Banks in favor of the State Agency. Such Letters of Credit shall be designed to provide funds for the State Agency for the operation of the Program in such amounts and at such times as the funds are needed to reimburse service institutions. As soon as practicable after funds are made available, C&MS shall prepare a Letter of Credit for each State with which it has an agreement. Notwithstanding the foregoing provisions, if funds are made available by Congress for the operation of the Program under a continuing resolution, pending an appropriation of funds for a fiscal year, Letters of Credit shall reflect only the amounts available for the effective period of the resolution. The State Agency shall obtain funds needed to reimburse service institutions through presentation by designated State officials of a Payment Voucher on Letter of Credit to a local commercial bank for transmission to the appropriate Federal Reserve Bank, in accordance with procedures prescribed by C&MS and approved by the U.S. Treasury Department. The State Agency shall draw only such funds as are needed to pay claims certified for payment and shall use such funds without delay to pay the claims. The State Agency shall report information on the use of Program funds on a monthly basis to C&MS on a form provided by C&MS for the purpose. Notwithstanding the foregoing provision for the use of Letters of Credit, Program funds shall be made available to the State Agency for the District of Columbia by means of Treasury Department checks.

### § 225.6 Use of funds by State Agencies.

Program funds made available to the State Agency, or CFPDO where applicable, from the funds appropriated for any fiscal year, shall be used only to reimburse service institutions in connection with meals served to children in accordance with the provisions of this part, during such fiscal year and the first 3 months of the following fiscal year, except that not to exceed 25 per centum of the program funds so made available may be used to assist service institutions by paying not to exceed 75 per centum of the cost incurred during such fiscal year and the first 3 months of the following fiscal year for the purchase or rental of equipment to enable the service institutions to establish, maintain, and expand food service under this part. The earliest claims accruing against program funds during such 3-month period shall be considered as claims against the funds so carried over, to the extent thereof.

## Food Assistance Provisions

### § 225.7 Requirements for participation.

(a) Any service institution desiring to participate in the program shall make written application for participation to the State Agency, or CFPDO where applicable. The service institution's need to participate in the Program shall be reviewed annually by the State Agency, or CFPDO where applicable.

(b) Applications shall include the name and address of the service institution and the following information: (1) Type of service institution; (2) age range of children attending; (3) hours of operation; (4) estimated average daily attendance; (5) proportion of children

from families having working mothers; (6) proportion of children from low-income families; (7) types of meals to be served; (8) price to be charged children for meals; (9) needs of children in the service institution for free or reduced price meals; (10) economic condition of the area from which the service institution draws attendance; (11) need of the service institution for assistance as reflected by the financial condition of any food service operation in the service institution and by the availability of, or requests for assistance from, other Federal programs; (12) beginning and closing date of food service under the program; and (13) if a private institution, a certification as to its nonprofit status.

(c) In no event shall any service institution which operates the food service in any attendance unit under a contractual arrangement with a concessionaire or food service management company or under a similar arrangement be eligible for participation in the program in such attendance unit, even though the service institution obtains no profit from the operation of such food service.

(d) In no event shall any service institution which participates in the Special Milk Program for Children (7 CFR Part 215) be eligible for participation in the program.

(e) Service institutions approved for participation in the program shall enter into a written agreement with the State Agency, or CFPDO where applicable. Such agreements shall be on a form approved by SLD and shall provide that the service institutions shall: (1) Serve meals on a nonprofit basis, using all of the income accruing therefrom solely for the operation or improvement of such service, except that no such income shall be used to purchase land, to acquire or construct buildings, or to make alterations of existing buildings; (2) serve meals which meet the minimum requirements prescribed in § 225.8 during a period designated as the attendance period by the service institution; (3) price each meal as a unit; (4) supply free or reduced-price meals to children determined by the service institution to be unable to pay the full charge; (5) state in writing its policy in making determinations under the preceding clause (4), which policy shall be established, to the extent practicable, in consultation with public welfare and health agencies, and shall be consonant with the guidelines issued by the Secretary on this subject; (6) make no physical segregation of or discrimination against any child because of his inability to pay the full price of the meals; i.e., a child who receives free or reduced-price meals shall not be identified as such to his peers and shall not be required (as a condition for receiving such meals) to: (i) use a separate lunchroom, (ii) go through a separate serving line, (iii) enter the lunchroom through a separate entrance, (iv) eat meals at a different time, (v) work for his meals, (vi) use an obviously different ticket or token; (7) claim reimbursement at the assigned rates for meals served, or on an operating cost basis if approved; (8) submit claims for reimbursement in accordance with procedures established by the State Agency, or CFPDO where applicable; (9) maintain, in the storage, preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations; (10) purchase, in as large quantities as may be efficiently utilized in the program, foods designated as plentiful by the State Agency, or CFPDO where applicable; (11) accept and use, in as large quantities as may be efficiently utilized in the program, foods donated by the Department under the authority of section 32 of the Act of August 24, 1935, as amended, section 416 of the Agricultural Act of 1949, as amended, and section 709 of the Food and Agriculture Act of 1965 (foods donated under the authority of section 6 of the National School Lunch Act are not available to service institutions for use in the program); (12) maintain necessary facilities for storing, preparing, and serving food, except that service institutions with no food service facilities or with totally inadequate food service facilities, may utilize existing school food service facilities or obtain meals to be served from an operating, centrally located, school food service facility. In the event a service institution contracts for its food service with such a school, the requirements of this part shall be embodied in the contract with such school; (13) maintain full and accurate records of its food service operation, including records with respect to the following:

(i) *Meals.* (*a*) Daily number of meals served to children, by type of meal.

(*b*) Daily number of meals served free or at reduced price to children, by type of meal.

(*c*) Daily number of meals served to adults, by type of meal.

(ii) *Program income (receipts).* (*a*) From children's payments.

(*b*) From Federal reimbursement.

(*c*) From adult's payments.

(*d*) From all other sources.

(iii) *Program expenditures.* (Supported by invoices, receipts, or other evidence of expenditure.) (*a*) For food.

(*b*) For labor.

(*c*) All other expenditures.

(iv) *Value of donations to program.* (*a*) Donated food, exclusive of foods donated by the Department.

(*b*) Donated services.

(*c*) All donations other than food and services.

(14) retain records required under the preceding clause (13) for a period of 3 years and 3 months after the end of the fiscal year to which they pertain; (15) upon request, make all accounts and records pertaining to the program available to representatives of the State Agency, the Department and the General Accounting Office for audit or administrative review at a reasonable time and place.

(f) Applications and agreements may be made on behalf of a service institution by a nonprofit agency that is exempt from income tax under the Internal Revenue Code, as amended, to which the service institution has delegated authority for the operation of its food service.

### § 225.8 Requirements for meals.

(a) Service institutions shall serve one, or a combination of one or more of the following types of meals:

(1) Breakfast.

(2) Lunch.

(3) Supper.

(4) Supplemental food served between such other meals.

(b) Except as otherwise provided in this section, each meal shall contain, as a minimum, the indicated food components:

(1) A breakfast shall contain:

(i) A serving of fluid whole milk as a beverage, or on cereal, or used in part for each purpose.

(ii) A serving of fruit or full-strength fruit or vegetable juice.

(iii) A serving of whole-grain or enriched bread; or an equivalent serving of cornbread, biscuits, rolls or muffins, etc., made of whole-grain or enriched meal or flour; or a serving of whole-grain cereal or enriched or fortified cereal; or a combination of any of these foods.

(2) A lunch or supper shall contain:

(i) A serving of fluid whole milk as a beverage.

(ii) A serving of lean meat, poultry or fish; or cheese; or an egg; or cooked dry beans or peas; or peanut butter; or a combination of any of these foods.

(iii) A serving of two or more vegetables or fruits, or a combination of both.

(iv) A serving of whole-grain or enriched bread; or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour.

(v) A serving of butter or fortified margarine.

(3) Supplemental food shall include:

(i) A serving of milk or full-strength fruit or vegetable juice.

(ii) A serving of whole-grain or enriched bread, rolls or cereal, etc.

(4) Except as otherwise provided in this section, the minimum amounts of component foods to serve at meals as set forth in subparagraphs (1), (2), and (3) of this paragraph are as follows:

(i) Age 1 up to 3:

(*a*) Breakfast—½ cup of milk; ¼ cup of juice or fruit; ½ slice of bread or equivalent or ¼ cup of cereal or an equivalent quantity of both bread and cereal.

(*b*) Lunch or supper—½ cup of milk; 1 ounce (edible portion as served) of meat or an equivalent quantity of an alternate; ¼ cup of vegetables or fruits or both consisting of two or more kinds; ½ slice of bread or equivalent; ½ teaspoon of butter or fortified margarine.

(*c*) Supplemental food—½ cup of milk or juice; ½ slice of bread or equivalent.

(ii) Age 3 up to 6:

(*a*) Breakfast—¾ cup of milk; ½ cup of juice or fruit; ½ slice of bread or equivalent or ⅓ cup of cereal or an equivalent quantity of both bread and cereal.

(*b*) Lunch or supper—¾ cup of milk; 1½ ounces (edible portion as served) of

meat or an equivalent quantity of an alternate; ½ cup of vegetables or fruits or both consisting of two or more kinds; ½ slice of bread or equivalent; 1 teaspoon of butter or fortified margarine.

(c) Supplemental food—½ cup of milk or juice; ½ slice of bread or equivalent.

(iii) Age 6 up to 12:

(a) Breakfast—1 cup of milk; ½ cup of juice or fruit; 1 slice of bread or equivalent or ¾ cup of cereal or equivalent quantity of both bread and cereal.

(b) Lunch or supper—1 cup of milk; 2 ounces (edible portion as served) of meat or an equivalent quantity of an alternate; ¾ cup of vegetables or fruits or both consisting of two or more kinds; 1 slice of bread or equivalent; 2 teaspoons of butter or fortified margarine.

(c) Supplemental food—1 cup of milk or juice; 1 slice of bread of equivalent.

Younger children of this group (age 6 up to 9) may be served lesser quantities of the foods (other than bread or milk) in the above types of meals, provided that such adjustments are based on the lesser food needs of such children.

(iv) Age 12 and over: Adult-size portions based on the greater food needs of older boys and girls.

(5) For the purposes of this section, a cup means a standard measuring cup.

(6) To improve the nutrition of participating children additional foods may be served with each meal, as follows:

(i) Breakfast:

(a) Include as often as practicable a serving of a protein-rich food such as egg, meat, poultry, fish, cheese, peanut butter, or a combination of any of these foods.

(b) Additional foods may be served as desired.

(ii) Lunch or supper: Additional foods may be served with lunches or suppers as desired.

(iii) Supplemental food: Include as often as practicable a serving of protein-rich food, such as peanut butter or cheese; or a serving of vegetable or fruit; and other foods as needed to satisfy appetites.

(c) If emergency conditions prevent a service institution normally having a supply of fluid whole milk from temporarily obtaining delivery thereof, the State Agency, or CFPDO where applicable, may approve reimbursement for breakfasts, lunches or suppers served without milk during the emergency period. If a sufficient supply of fluid whole milk is obtainable, the State Agency, or CFPDO where applicable, may reimburse for breakfasts, lunches or suppers served without milk, if each child is offered such meal with milk and no reduction is made in the price of such meal when children do not take the milk.

(d) (1) In American Samoa, Guam, Puerto Rico, the Virgin Islands, and the Trust Territory of the Pacific Islands, the following variations from the meal requirements are authorized: A serving of rice or a starchy vegetable, such as ufi, tanniers, yams, plantains, sweet potatoes or a serving of enriched or whole grain cereal products such as macaroni, dumplings or noodles, may be substituted for the bread requirements.

(2) Substitutions may be made in foods listed in paragraph (b) (1), (2), and (3) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority.

### § 225.9 Reimbursement payments.

(a) Reimbursement shall be paid to service institutions only in connection with types of meals meeting the requirements of § 225.8.

(b) The maximum rates of reimbursement for meals shall be 30 cents for a lunch or supper, 15 cents for a breakfast, and 10 cents for supplemental food.

(c) In the agreement with any service institution, the State Agency, or CFPDO where applicable, shall assign rates of reimbursement for meals which reflect the needs of the service institution as determined by the State Agency, or CFPDO where applicable, but which do not exceed the maximum rates specified in paragraph (b) of this section. Assigned rates may be changed by the State Agency, or CFPDO where applicable. Notice of any change shall be given to the service institution.

(d) Service institutions shall be reimbursed on the basis of the number of meals, by types, served to children times the assigned rates, except that the last claim from a service institution each fiscal year (or, if the service institution conducted only a summer operation, the last claim at the end of the summer) may be paid at a rate in excess of the assigned rates or the maximum rates: *Provided, however,* That the total reimbursement for meals to a service institution during any fiscal year shall not exceed the lesser of (1) an amount equal to the number of meals by types served to children during the fiscal year times the maximum rates, or (2) the cost of obtaining food.

(e) Notwithstanding any other provision of this section, where all or nearly all the attending children are in need of free meals and the service institution is financially unable to meet this need, the State Agency, or CFPDO where applicable, may authorize financial assistance to such service institution, in lieu of reimbursement for meals, in an amount not to exceed 80 per centum of the operating costs of the program; i.e., the cost of obtaining, preparing and serving food. Service institutions shall justify the need for such additional assistance in their applications to the State Agency, or CFPDO where applicable. Initial approval for Federal assistance to any service institution in an amount not to exceed 80 per centum of operating costs may be given by the State Agency, or CFPDO where applicable, for a period not to exceed 3 full calendar months and only with the prior concurrence of CFPDO where the program is administered by the State Agency and of SLD where the program is administered by CFPDO. Before the period of initial approval has expired, representatives of the State Agency, or CFPDO where applicable, shall visit such approved service institutions to determine whether the need for free and reduced-price meals is such as to warrant continued financial assistance of up to 80 per centum of operating costs.

(f) Service institutions participating in the program may serve children from other service institutions eligible to participate but which are not participating in the program, whether or not such other service institutions have any food service, and may make a claim for reimbursement in connection with meals served such children.

### § 225.10 Effective date for reimbursement.

Reimbursement payments may be made only to service institutions operating under an agreement with the State Agency or the Department, and may be made only after execution of the agreement. Such payments may include reimbursement in connection with meals served in accordance with provisions of the program in the calendar month preceding the calendar month in which the agreement is executed, including the last month of the preceding fiscal year if carryover funds are available for such reimbursement.

### § 225.11 Reimbursement procedure.

(a) Each State Agency, or CFPDO where applicable, shall require each service institution to submit a claim for reimbursement on a calendar month basis.

(b) The claim for reimbursement shall include the following items: (1) The month and year for which the claim is made; (2) the name and address of the service institution; (3) the number of days that meals were served; (4) the total number of meals, by types, served to children, the assigned rates of reimbursement for such meals, and the total amount of reimbursement claimed; (5) the total number of meals, by types, served to adults; (6) the number of free or reduced price meals, by types; (7) income (receipts) from children's payments; (8) income (receipts) from reimbursement; (9) income (receipts) from adults' payments; (10) all other income (receipts); (11) expenditures representing the cost of obtaining food; (12) expenditures representing the cost of labor; (13) all other expenditures; and (14) the value of donated goods and services, excluding the value of commodities donated by the Department. In submitting a claim, each service institution shall certify that the claim is true and correct; that records are available to support the claim; and that payment has not been received. Reporting of income (receipts) and expenditures shall be on a monthly basis and be in accordance with the system of accounting established by the State Agency, or C&MS where applicable, and shall identify receivables due and unpaid bills, and be such as to permit determination of the operating balance available to the service institution.

(c) In no event shall a service institution claim reimbursement under the

program for any meal for which reimbursement is claimed under the National School Lunch Program (7 CFR Part 210) or under the School Breakfast Program (7 CFR Part 220).

NONFOOD ASSISTANCE PROVISIONS

**§ 225.12 Funds for nonfood assistance.**

Not to exceed 25 per centum of the funds apportioned to any State may be used by the State, or CFPDO where applicable, to assist service institutions in the purchase or rental of equipment to enable the service institutions to establish, maintain, and expand food service under the Program.

**§ 225.13 Matching of funds.**

(a) Any nonfood assistance funds made available by the State Agency, or CFPDO where applicable, to service institutions shall be upon the condition that the service institution shall bear at least one-fourth of the purchase or rental cost of equipment financed under this part.

(b) That part of the cost of equipment to be borne by the service institution may be financed with funds from any source other than funds made available under this part and children's payments obtained by the service institution through its food service.

**§ 225.14 Requirements for participation.**

(a) Service institutions which are participating or have filed an application under section 225.7 to participate in the program and which are in need of financial assistance to acquire equipment to establish, maintain or expand food service under the program may make written application for such assistance to the State Agency, or CFPDO where applicable. Applications shall include the name and address of the service institution and the following information: (1) A detailed description of the type(s) of equipment needed to provide a food service to the children; (2) the supplier's statement on the estimated purchase or rental cost of such equipment, including installation; (3) the anticipated delivery and installation date; (4) a detailed explanation justifying the need for equipment and explaining the inability of the service institution to fully finance the food service equipment needed; (5) a description of the source of funds which will be used to meet its share of the purchase or rental cost of the equipment to be obtained, and the manner in which payment will be made to the supplier; and (6) if the application is by one attendance unit of a centralized or a host service institution which provides a food service for other attendance units, the names and addresses of each attendance unit and the average daily attendance of each.

(b) Service institutions shall be approved for nonfood assistance on the basis of: (1) The relative need of the service institution for assistance in acquiring equipment to operate an adequate food service, and (2) the amount of funds available to the State Agency, or CFPDO where applicable.

(c) Service institutions approved for nonfood assistance shall enter into a written agreement, on a form approved by SLD, with the State Agency, or CFPDO where applicable. The service institution shall agree to: (1) Participate in the food assistance aspects of the program; (2) maintain full and accurate records to account for the cost of the equipment and receipt and use of all nonfood assistance funds and retain such records for a period of 3 years and 3 months after the end of the fiscal year to which they pertain; (3) provide at least one-fourth of the purchase price or rental cost of the equipment; (4) use the equipment in connection with the program and periodically inform the State Agency, or CFPDO where applicable of intent to continue or terminate food service operations; (5) in the event the purchased equipment is no longer used prior to achieving full depreciation, transfer and assign that part of the equipment financed with Federal funds, or the residual value thereof, to the State Agency, or CFPDO where applicable, or with the approval of the State Agency, or CFPDO where applicable, transfer such equipment to another service institution participating or desiring to participate in the program.

**§ 225.15 Reimbursement payments.**

Reimbursement shall be made only in an amount not to exceed three-fourths of the total purchase or rental cost, including delivery and installation charges, of the equipment described on the application approved by the State Agency, or CFPDO where applicable.

**§ 225.16 Reimbursement procedure.**

(a) Each State Agency, or CFPDO where applicable, shall require approved service institutions to submit a claim for reimbursement for equipment obtained. The claim for reimbursement shall include the following items: (1) The name and address of the service institution; (2) the month and year the equipment was purchased or rented; (3) the style, model number, quantity, and purchase or rental cost of each item of equipment, exclusive of delivery, installation, and service costs; and (4) the cost of delivery, installation, and service costs for the equipment.

(b) Each claim shall be accompanied by a copy of the bill, invoice, or other evidence of purchase or rental and shall be made part of the service institution's case file maintained by the State Agency, or CFPDO where applicable, for a period of five years after the end of the fiscal year to which they pertain.

(c) In submitting a claim for equipment each service institution shall certify that the claim is true and correct; that the equipment has been installed and is operating; that records are available to support the claim; and that payment has not been received.

(d) Any claim for reimbursement filed later than 90 days after June 30 of the fiscal year in which it accrued, shall be disallowed except where such claim has been filed late because of circumstances determined by the Department to be beyond the control of the service institution.

MISCELLANEOUS PROVISIONS

**§ 225.17 Special responsibilities of State Agencies.**

(a) Each State Agency shall maintain an account of all Federal funds advanced to it under the program each fiscal year and shall maintain a current record of payments made to service institutions and of the unexpended balance remaining on hand. All payments made from such funds shall be made only upon properly certified vouchers. Each State Agency shall maintain current records on program operations in service institutions and shall submit monthly reports to SLD on such operations on a form provided by SLD. All such records shall be retained for a period of 3 years and 3 months after the end of the fiscal year to which they pertain, except records of nonfood assistance which shall be retained for a period of 5 years after the end of the fiscal year to which they pertain.

(b) Each State Agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the program, and shall take appropriate action to correct any irregularities. Each State Agency shall maintain on file evidence of such investigations and actions. C&MS and OIG may make investigations at the request of the State Agency or where C&MS or OIG determines investigations are appropriate.

(c) Each State Agency shall return to C&MS any Federal funds paid to it under the program which are unobligated as of September 30 of the fiscal year following the fiscal year for which the funds were appropriated, as soon as practicable, but in any event not later than 30 days following demand by C&MS. Each State Agency shall also pay to C&MS any interest received or credited on Federal funds paid to it under the program.

(d) Each State Agency shall provide service institutions with monthly information on foods available in plentiful supply, based on information provided by C&MS.

(e) Each State Agency shall provide adequate personnel for program supervision, including instructional and advisory services to service institutions and other supervisory assistance to assure adequacy of program operations. As one part of the supervisory assistance activities, administrative evaluations, including on-site visits to service institutions, shall be made. If the State Agency, under 7 CFR Part 220, obtains Federal assistance for State administrative expenses incurred in the program, such supervisory assistance activities shall be conducted in accordance with the approved plan.

(f) Each State Agency may submit to C&MS, for approval by OIG, a plan under which it will conduct audits in service institutions. Any State Agency satisfactorily conducting, as of the effective date of this part, an audit program approved under the National School

Lunch Program (Part 210 of this chapter) may be deemed to have an approved plan, or such State Agency may submit its plan for formal approval. Audits performed by or on behalf of State Agencies shall meet standards prescribed by OIG, and shall be reviewed by OIG at least annually to the extent necessary to determine compliance with such standards. OIG shall have the right to perform test audits of service institutions and to make audits on a statewide basis if it determines that the State audit program is not functioning satisfactorily or if the State terminates its audit program.

(g) A list of service institutions eligible to receive food commodities donated by the Department shall be prepared each year by the State Agency with accompanying information on the average daily number of meals to be served in such service institutions. This information shall be prepared as early as practicable for each fiscal year (no later than June 1 for summer programs and September 1 for year-round programs) and forwarded to the agency of the State handling the distribution of donated commodities. The State Agency shall be responsible for promptly revising the information to reflect additions or deletions of eligible service institutions and for providing such adjustments in participation data as is determined necessary by the State Agency.

(h) CFPDO will, in the States in which it administers the program, assume all of the responsibilities of State Agencies set forth in this section, with the exception of those set forth in paragraph (f).

**§ 225.18 Claims against service institutions.**

(a) If a State Agency receives information or has reason to believe that a claim or a portion of a claim for reimbursement submitted by a service institution is not properly payable under this part, it shall not pay the claim or such portion of the claim and shall advise the service institution of the reasons for nonpayment or disallowance. The service institution may then submit to the State Agency evidence and information to justify the total amount claimed, or may submit a reclaim for the portion disallowed, with appropriate justification therefor. The State Agency may make reimbursement in the amount it believes is warranted by the evidence, subject, however, to the provision of paragraph (e) of this section.

(b) If a State Agency receives information or has reason to believe that a payment already made to a service institution was not proper under this part, it shall advise the service institution of the amount and basis of the alleged overpayment and may request a refund or advise the service institution that the amount overpaid is being deducted from amounts due the service institution under subsequent claims. The service institution shall have full opportunity to present evidence and information to the State Agency to justify the amount of reimbursement paid. If the State Agency determines that the evidence is not sufficient, the State Agency shall collect the amount of the overpayment from the service institution by refund or by deduction from amounts due under subsequent claims for reimbursement made by the service institution. If new evidence becomes available to the service institution, it may, within a reasonable time after the collection, make a reclaim for all or a portion of the amount so collected, and the State may pay the amount of such reclaim it believes is warranted by the evidence, subject, however, to the provision of paragraph (e) of this section.

(c) The State Agency may refer to SLD, through CFPDO, for determination any action it proposes to take under this section.

(d) The State Agency shall maintain all records pertaining to action taken under this section. Such records shall be retained for a period of 3 years and 3 months after the end of the fiscal year to which they pertain.

(e) If SLD does not concur with the State Agency's action in paying a claim or a reclaim, or in failing to collect an overpayment, SLD shall assert a claim against the State Agency for the amount of such claim, reclaim, or overpayment. In all such cases the State Agency shall have full opportunity to submit to SLD evidence or information concerning the action taken. If, in the determination of SLD, the State Agency's action was unwarranted, the State Agency shall promptly pay to C&MS the amount of the claim, reclaim, or overpayment.

(f) The amounts of overpayments recovered by the State Agency from service institutions may be utilized, first, to pay claims which arise under the program during the period for which the funds from which the overpayment was made were initially available, and second, to repay any State funds expended in the reimbursement of claims arising under the program during such period and not otherwise repaid. Any amounts recovered which are not so utilized shall be returned to C&MS in accordance with the requirements of this part.

(g) With respect to service institutions in States in which the program is administered by CFPDO, when CFPDO disallows a claim or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the service institution of the reasons for such disallowance or demand and the service institution shall have full opportunity to submit evidence or to file reclaims for any amounts disallowed or demanded in the same manner afforded in this section to service institutions in which the program is administered by State Agencies.

(h) If the State Agency, or CFPDO where applicable, finds that a service institution is failing to meet the requirements of § 225.8, the State Agency or CFPDO need not disallow payment or collect an overpayment arising out of such failure, if the State Agency, or CFPDO where applicable, determines that such failure is not substantial or willful and takes such other action as, in its opinion, will have a corrective effect.

**§ 225.19 Administrative analyses and audits.**

(a) Each State Agency shall provide C&MS with full opportunity to conduct administrative analyses (including visits to service institutions) of all operations of the State Agency under the program and shall provide OIG with full opportunity to conduct audits of all operations of the State Agency under the program. Each State Agency shall make available its records, including records of the receipt and expenditure of funds under the program, upon a reasonable request by C&MS or OIG, OIG shall also have the right to make audits of the records and operations of any service institution.

(b) In making administrative analyses or audits for any fiscal year, the State Agency, or CFPDO where applicable, or OIG may disregard any overpayment which does not exceed $5 or, in the case of State Agency administered programs, does not exceed the amount established under State law, regulations or procedure as a minimum amount for which claim will be made for State losses generally: *Provided, however,* That no overpayment shall be disregarded where there are unpaid claims of the same fiscal year from which the overpayment can be deducted or where there is evidence of violation of Federal or State statutes.

**§ 225.20 Prohibitions.**

(a) In carrying out the provisions of this part, neither the Department nor the State Agency shall impose any requirements as a condition for participation in the program with respect to the type of activities conducted by service institutions (other than those directly related to their food service operation), the methods of child care used, and other programs conducted, over and above any State regulations for approval or licensing of such service institutions.

(b) The value of assistance to children under the program shall not be considered to be income or resources for any purposes under any Federal or State laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act.

**§ 225.21 Other provisions.**

(a) Any State Agency or any service institution may be disqualified from future participation in the program if it fails to comply with the provisions of this part and its agreement with the Department or the State Agency. This does not preclude the possibility of other action being taken through other means available where necessary, including action under applicable Federal statutes. If any part of the money received by the State Agency by any improper or negligent action is diminished, lost, misapplied, or diverted from the program by the State Agency, CFPDO may order

such money to be replaced. Until the money is replaced, no subsequent payment under the program shall be made to the State Agency. The State Agency shall have full opportunity to submit evidence, explanation or information concerning instances of noncompliance or diversion of funds before a final determination is made in such cases.

(b) Any or all of the provisions of this part may be withdrawn or amended at any time by the Department, but no withdrawal or amendment shall be made without prior written notice having been mailed to the State Agencies or to service institutions in which the program is administered by CFPDO. No change in the requirements for meals which increases the food costs to service institutions and no change which decreases the maximum rates of reimbursement shall become effective in less than 60 days after publication of notice thereof.

(c) Nothing contained in this part shall prevent the State Agency from imposing additional requirements for participation in the program which are not inconsistent with the provisions of this part.

**§ 225.22 Program information.**

Service institutions desiring information concerning the program should write to their State Agency or the appropriate CFPDO as indicated below:

(a) In the States of Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia: Consumer Food Programs, Northeast District Office, C&MS, U.S. Department of Agriculture, Room 1611, 26 Federal Plaza, New York, N.Y. 10007.

(b) For the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, and the Virgin Islands: Consumer Food Programs, Southeast District Office, C&MS, U.S. Department of Agriculture, 1795 Peachtree Street NE., Atlanta, Ga. 30309.

(c) For the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin: Consumer Food Programs, Midwest District Office, C&MS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Ill. 60605.

(d) For the States of Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, and Texas: Consumer Food Programs, Southwest District Office, C&MS, U.S. Department of Agriculture, 500 South Ervay Street, Dallas, Tex. 75201.

(e) For the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Trust Territory of the Pacific Islands, Utah, Washington, and Wyoming: Consumer Food Programs, Western District Office, C&MS, U.S. Department of Agriculture, 630 Sansome Street, San Francisco, Calif. 94111.

NOTE: 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.

Approved: September 23, 1968.

Effective date: These regulations shall be effective upon publication in the FEDERAL REGISTER.

[SEAL] ORVILLE L. FREEMAN,
*Secretary.*

[F.R. Doc. 68-11743; Filed, Sept. 26, 1968; 8:48 a.m.]

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

### SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

### PART 730—RICE

### Subpart—Regulations for Determination of Acreage Allotments for 1969 and Subsequent Crops of Rice

On pages 10093 through 10102 of the FEDERAL REGISTER of July 13, 1968 (33 F.R. 10093), was published a notice of proposed rule making to issue regulations for determination of acreage allotments for 1969 and subsequent crops of rice. Interested persons were given 30 days after publication of such notice in which to submit written data, views, or recommendations with respect to the proposed regulations.

No written submissions pursuant to the notice were received. The proposed regulations, as published in the notice, are adopted as set forth below with the following changes:

1. The definitions of "old farm" and "old producer", paragraphs (b) (8) and (9) respectively of § 730.62 are rewritten for clarity.

2. The definition of "tenant" in paragraph (b) (16) of § 730.62 is deleted and paragraph (a) of § 730.62 is revised to include the term "tenant" in the terms adopted by reference from Part 719 of this chapter.

3. Sections 730.69(c)(4) and 730.80 (c)(4) are revised to provide an exception to the 50 percent of income requirement in the case of certain low-income applicants for new producer and new farm rice allotments.

4. Sections 730.75(c) and 730.84(c) are revised to require a written request for reapportioned allotment and, in certain cases, to permit the county committee to accept verbal requests.

5. Section 730.76(a) is revised by deleting the last sentence thereof and inserting such sentence in § 730.76(c) and revising the language in paragraph (c) so that the reference to paragraph (b)(3) becomes (b)(4).

6. Section 730.76(b)(3)(ii) is revised by adding a sentence at the end thereof to provide that successors in interest to a transferee's producer allotment shall comply with the planting requirement applicable to the transferee.

7. An effective date provision is added:

Signed at Washington, D.C., on September 23, 1968.

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

GENERAL



AUTHORITY: The provisions of this subpart issued under secs. 301, 353, 363, 375, 377, 378, 52 Stat. 38, as amended, 61, as amended, 63, as amended, 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended; 7 U.S.C. 1301, 1353, 1363, 1375, 1377, 1378.

GENERAL

**§ 730.61 Basis and purpose.**

The regulations contained in this subpart are issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of producer and farm allotments for the 1969 and subsequent crops of rice. The purpose of the

regulations in this subpart is to provide the procedure for the apportioning in the States of California, Florida, South Carolina, Tennessee, Texas, and the "producer administrative area" within the State of Louisiana, the State rice allotments among rice producers in the State or administrative area and, in the States of Arkansas, Illinois, Mississippi, Missouri, North Carolina, Oklahoma, and the "farm administrative area" within the State of Louisiana, the apportionment of county rice allotments among the farms in the county.

§ 730.62 Definitions.

(a) *General terms.* In determining the meaning of the provisions in this subpart, unless the context indicates otherwise, words imparting the singular include and apply to several persons or things, words imparting the plural include the singular, words imparting the masculine gender include the feminine as well, and words used in the present tense include the future as well as the present. The definitions in Part 719 of this chapter shall apply to this subpart. The provisions of Part 720 of this chapter concerning the expiration of time limitations shall apply to this subpart.

(b) *Rice program terms.* The following terms shall have the following meanings:

(1) "Act" means the Agricultural Adjustment Act of 1938, and any amendments or supplements thereto.

(2) "Administrative area" means a group of one or more counties or parishes within a State specifically designated as such for the purpose of establishing rice allotments in the State. In any State in which administrative areas are designated, there shall be two such administrative areas, one designated "producer administrative area" in which farm rice allotments shall be established on the basis of past production of rice by producers on the farm and the other designated "farm administrative area" in which farm rice allotments shall be established on the basis of past production of rice on the farm. For purposes of the regulations contained in this subpart in the States which have been divided into administrative areas, the term "State allotment" shall be deemed to mean the part of the State allotment apportioned to each administrative area and the word "State" shall be deemed to mean "administrative area," where applicable.

(3) "Engaged in the production of rice" means having an interest in the production of an acreage of rice being produced on a farm and receiving, at the time of harvest, a predetermined and fixed portion of such crop or the proceeds thereof by virtue of furnishing land, labor, water, equipment, or "producer" allotment which has been approved as all or a part of the "farm" allotment determined for a farm. Any producer who the county or State committee finds, after allocation of his producer allotment to a farm, is not or was not engaged in the production of rice on the farm as provided in accordance with this subparagraph, shall not be deemed to be engaged in the production of rice on the farm when such determination has been made in accordance with § 730.1521(e) or § 730.72(e).

(4) "Farm rice history acreage" means the acreage determined in accordance with § 730.1516(b) or § 730.67 (b) and § 730.1527(b) or § 730.78(b).

(5) "Farm State" means the States of Arkansas, Illinois, Mississippi, Missouri, North Carolina, Oklahoma, and the "farm administrative area" within the State of Louisiana consisting of the counties or parishes of Union, Lincoln, Jackson, Winn, Grant, Rapides, Avoyelles, St. Landry, St. Martin, Iberia, and St. Mary, and all counties or parishes within the State west of such counties or parishes, in which farm rice allotments are determined on the basis of past production of rice on the farm and the rice allotments previously established for the farm in lieu of past production of rice by the producer and the allotments previously established for the producer.

(6) "New farm" means any farm other than one defined under subparagraph (8) of this paragraph and for which an allotment is established for the production of rice in the current year.

(7) "New producer" means any producer other than one defined under subparagraph (9) of this paragraph for whom a producer allotment is established for the production of rice in the current year.

(8) "Old farm" means any farm which has rice history acreage other than zero for any one or more of the 5 years immediately preceding the current year.

(9) "Old producer" means any person who has rice history acreage other than zero for any one or more of the 5 years immediately preceding the current year.

(10) "Producer rice history acreage" means the producer's share(s) of the acreages determined for farms in accordance with §§ 730.67(b) and 730.78 (b), including the acreage, if any, released by such producer in accordance with the applicable provisions for the release of acreage.

(11) "Producer State" means the States of California, Florida, South Carolina, Tennessee, Texas, and the "producer administrative area" within the State of Louisiana consisting of the counties or parishes of Morehouse, Ouachita, Caldwell, La Salle, Catahoula, Concordia, West Feliciana, Pointe Coupee, Iberville, Assumption, and Terrebonne, and all counties or parishes within the State east of such counties or parishes in which farm allotments are determined on the basis of past production of rice in the State by the producer on the farm and the rice acreage allotments previously established in the State for the producer.

(12) "Rice acreage" means the acreage planted to rice and the acreage of volunteer rice which reaches maturity, excluding (i) any acreage of nonirrigated rice produced on any farm on which such acreage is 3 acres or less, (ii) any acreage of sweet, glutenous, or candy rice commonly known as Mochi Gomi, (iii) any acreage of rice grown for experimental purposes only by or under contract to a publicly owned agricultural experiment station, (iv) any acreage of rice grown for the purpose of experiments on mosquito control by or under contract to a Federal, State, or local public health service: *Provided,* That (*a*) the rice is planted in small plots which are designated by the producer and approved by the county committee with the concurrence of the State committee for such purpose before planting, and (*b*) evidence of destruction of the rice produced on such plots satisfactory to the county committee is furnished within 60 calendar days after the date on which the harvesting of rice is normally substantially completed in the county as provided in § 730.10(a), (v) any acreage of rice in excess of the allotment on a wildlife refuge farm consisting solely of Federal- or State-owned land, if such acreage is not harvested, but is left on the land for wildlife feed, (vi) any acreage planted to rice in excess of the farm allotment, or when applicable, the permitted acreage of rice under the conservation and cropland adjustment programs, which is destroyed or otherwise handled or treated (by the producer or from some cause beyond his control) not later than the final date for disposal of excess acreage as provided in Part 718 of this chapter, Determination of Acreage and Compliance, so that rice cannot be harvested therefrom, (vii) any acreage seeded to rice outside of the field border levee where such levee is bounded by a fence or other barrier which would make it impossible to harvest or destroy the rice from such acreage by mechanical means, and any acreage seeded to rice inside of drainage ditch banks where the topography would make it impossible to harvest or destroy the rice from such acreage by mechanical means: *Provided,* That the seeding operations have been performed with an end gate seeder or by airplane, and (viii) any acreage planted to rice for wildlife food plots or for establishing wildlife habitat if (*a*) the rice is planted in small plots which are designated by the producer and approved by the county committee for such purpose before planting, and (*b*) no grazing or harvesting other than by wildlife is permitted. A second planting and maturing of rice on a farm on which one crop has been planted and matured in the same crop year shall be considered additional acreage when determining the farm rice acreage.

(13) "Rice acreage planted and considered planted on a farm" means the sum of the farm rice acreage and any allotment acreage which is (i) preserved under the provisions of Part 719 of this chapter, Reconstitution of Farms, Allotments, and Bases, (ii) adjusted downward at the request of the farm operator to meet cropland limitations as provided in § 730.79(e), and (iii) underplanted in the current year to deplete stored excess rice produced in a prior year as provided in § 730.30(h).

(14) "Rice acreage planted and considered planted by a producer" means the sum of the producer's shares of the rice

acreages planted and considered planted for the farm or farms on which he was engaged in the production of rice as provided in subparagraph (3) of this paragraph.

(15) "State office" means the office of the Agricultural Stabilization and Conservation State Committee.

**§ 730.63 Extent of calculation and rule of fractions.**

All rice allotments and other computations shall be rounded to tenths of acres in accordance with the provisions of Part 793 of this chapter.

**§ 730.64 Forms and instructions.**

The Deputy Administrator shall cause to be prepared and issued such instructions with respect to internal management and such forms as are necessary for carrying out the regulations in this part.

**§ 730.65 Supervision, review, and approval by State committee and additional authority for determination of allotment.**

(a) *Supervision, review, and approval by State committee.* State committees shall have overall responsibility for the administration of the regulations in this subpart in their respective States. All producer allotments in producer States and all farm allotments in farm States shall be reviewed by a representative of the State committee and shall be approved before official allotment notices are mailed. The State committee may revise or require revision of any determination made under the regulations in this subpart. Notices of farm allotments in producer States may be mailed without the approval of a representative of the State committee following the allocation of producer rice allotments to farms unless the State committee determines that such approval of the allotments is necessary to facilitate the effective administration of the program in the State. The State committee may take any action required to be taken by the county committee under this subpart which the county committee fails to take or require the county committee to withhold taking any action which is not in accordance with this subpart.

(b) *Additional authority for determination of allotments.* In addition to the authority established in this subpart for determination of allotments for both old and new producers and farms, including revised allotments to correct errors, such determinations may be made by the Secretary, Under Secretary, Administrator of Agricultural Stabilization and Conservation Service, or Deputy Administrator. A notice conforming to the requirements of § 730.70, § 730.74, or § 730.81 executed by any of the foregoing officials and mailed to the operator of the farm shall be deemed to meet the requirements of such section. A copy of each notice shall be kept among the records of the appropriate county committee and copies thereof shall be made available in accordance with the provisions of the applicable section.

FARM ALLOTMENTS BASED ON PAST PRODUCTION OF RICE BY PRODUCERS

**§ 730.66 Report of producer data.**

In a producer State, each producer, to the extent that such information is found necessary and is not already available to the county committee, shall furnish the county committee of the county in which such producer is or will be engaged in the production of rice in the current year, the names, addresses, and acreage shares of other persons having an interest in each rice crop in which such producer shared during the 5 years immediately preceding the current year. Information not so furnished shall be determined or appraised by the county committee on the basis of records in the county offices, available production and sales records and other available information.

**§ 730.67 Establishment of preliminary allotments for old producers.**

(a) *Basic factors.* In a producer State, the past production of rice in the State by the producer on farms and the allotments previously established in the State for such producer; abnormal conditions affecting acreage; land, labor, and equipment available for the production of rice; crop-rotation practices; and the soil and other physical factors affecting the production of rice, are the factors for apportioning the State allotment, less appropriate reserves, to farms owned or operated by persons who have produced rice in any one of the 5 calendar years immediately preceding the year for which the allotment is determined. To reflect these factors, the county committee shall, except for a person or irrigation company furnishing water for a share of the rice crop, establish a preliminary allotment of rice for the current year for each old producer in the county. Prior to establishing such preliminary allotments in the county, the county committee shall determine for each old farm:

(1) The farm rice history acreage for the year immediately preceding the year for which the allotment is being established and

(2) Each producer's share of such acreage determined for such farm.

(b) *Farm rice history acreage.* The farm rice history acreage shall be:

(1) If the farm consists of federally owned land and a restrictive lease prohibiting the planting of rice is in effect, the rice history acreage shall be the farm allotment.

(2) For a farm to which subparagraph (1) of this paragraph is not applicable, if 75 percent or more of the farm allotment (before reapportionment) is planted in the year for which the rice history acreage is being determined, or in either of the 2 immediately preceding years, the rice history acreage shall be the farm allotment before reapportionment.

(3) For a farm to which subparagraph (1) of this paragraph is not applicable, if less than 75 percent of the farm allotment (before reapportionment) is planted in the year for which the rice history acreage is being determined and in each of the 2 immediately preceding years, the rice history acreage will be the smaller of the farm allotment before reapportionment or the sum of:

(i) Rice acreage determined for the farm.

(ii) Acreage preserved under the provisions of Part 719 of this chapter.

(iii) Acreage reduced due to cropland limitations.

(iv) Acreage underplanted in the current year to deplete stored excess rice produced in a prior year.

(c) *Maximum farm history limited to allotment.* Notwithstanding the provisions of paragraph (b) of this section, the rice history acreage for any farm shall not exceed the allotment (before reapportionment) determined for such farm.

(d) *Producer's share of farm rice history acreages and the acreage, if any, released for reapportionment.* (1) The rice history acreage determined under paragraph (b) or (c) of this section for any farm for any year shall be divided among the producers who were engaged in the production of rice on the farm in such year in the same proportion that each producer's allotment, or part thereof, allocated to such farm for such year bears to the farm allotment established for such year.

(2) Any producer allotment voluntarily released by a producer to the county committee for reapportionment to farms under § 730.75 shall be added to such producer's share of the farm rice history acreages determined for farms on which he was engaged in the production of rice during the current year. The sum of the acreages determined under this paragraph for any year for any producer shall be his rice history acreage for such year. If a producer was not engaged in the production of rice on any farm, his rice history acreage for such year shall be his released acreage, if any, except as provided under paragraph (f) of this section.

(e) *Recommended producer preliminary allotment.* (1) If the county committee finds for any old producer in a producer State that such producer's share of the farm history acreages determined for farms in the State on which he was a producer in the preceding year, including any acreage released by such producer for reapportionment, adequately reflects the factors referred to in paragraph (a) of this section, such acreage shall be the recommended preliminary allotment for the producer for the current year. In making such finding, the county committee shall take into consideration the factors referred to in subparagraph (2) of this paragraph.

(2) If the county committee finds for any old producer that the acreage determined under paragraph (d) of this section for such producer does not adequately reflect the factors referred to in paragraph (a) of this section because the farm history acreages in the preceding year on such farms are substantially above or below the farm history acreages

on other farms in the county which are similar with respect to:

(i) The acreage of cropland on the farm available for the production of rice;

(ii) The number of rice-producing tenants or other labor on the farm;

(iii) The equipment available for producing the rice crop;

(iv) The soil, water, and other physical factors affecting the production of rice; and

(v) The established crop-rotation system being carried out on the farm; the producer's share of such acreage shall, for the purpose of establishing a recommended preliminary allotment for the current year, be adjusted so as adequately to reflect the factors referred to in paragraph (a) of this section: *Provided*, That in no case shall such adjusted acreage exceed 110 percent or be less than 90 percent of the producer allotment established for such producer for the preceding year.

(3) If a definitely established crop-rotation system is being carried out on a farm and the rice history acreage in the preceding year for the landowner is adjusted for the current year the adjusted acreage shall not exceed the largest or be less than the smallest allotment established for such owner for any year during the 3 years immediately preceding the current year: *Provided*, That if a zero allotment was established for a landowner in each of such years because of an established crop-rotation system, and rice will be planted on his farm under such system in the current year, the adjusted acreage shall not exceed his share of the largest rice history acreage determined for any year during the 5 years immediately preceding the current year: *Provided further*, That if rice was planted or considered planted on a farm in each of the 3 years immediately preceding the current year and it is determined that no rice will be planted on the farm in the current year under such a system, an adjusted acreage of zero shall be established for such landowner.

(f) *Preliminary allotment when producer was not engaged in the production of rice.* If a producer was not engaged in the production of rice in the preceding year, including a determination under the provisions of § 730.72(e), his producer rice history acreage for such year shall be zero: *Provided*, That if the producer planted or is regarded to have planted under the conservation and cropland adjustment programs in either of the 2 years immediately preceding such year as much as 75 percent of his producer allotment allocated to the farm or farms on which he was engaged in the production of rice his rice history acreage for the year in question shall be the producer allotment (before release) established for him for such year. The rice history acreage determined for any producer in accordance with this paragraph for the current year, shall become the preliminary allotment for such producer for the succeeding year, unless adjusted in accordance with the provisions of paragraph (e) of this section.

**§ 730.68 Determination of allotments for old producers.**

(a) *Apportioning allotments.* The preliminary allotments of rice determined for producers under § 730.67 adjusted pro rata to equal the State or area allotment minus (1) a reserve of not to exceed 3 per centum of the State or area allotment for new producers, and (2) the reserve of not to exceed 5 per centum of the State or area allotment for appeals and corrections, missed producers and adjustments under paragraph (b) of this section, except as may be adjusted under paragraphs (b) and (c) of this section, shall be the allotments for old producers. If, as a result of corrections, the total acreage allotted to producers in any State for which corrections are made is less than the total acreage originally allotted to such producers, such difference in acreage shall be added to such State reserve without regard to the limitation thereon.

(b) *Adjustment for small allotments.* The allotment determined for any old producer under paragraph (a) of this section may be increased if the State committee, with the assistance of the county committee, determines that the allotment is small in relation to allotments established for other old producers in the county on the basis of crop-rotation practices; land, labor, water, and equipment available for the production of rice; and the soil and other physical factors affecting the production of rice during the 5 years immediately preceding the current year: *Provided*, That such increased allotments shall not exceed the allotments determined for other producers in the county which are similar with respect to these factors. The acreage used in any State for increasing producer allotments under this paragraph shall not exceed the reserve acreage referred to in paragraph (a) of this section.

(c) *Adjustment for inadequate allotments.* The allotment determined for any producer under paragraph (a) or (b) of this section may be increased if the State committee with the assistance of the county committee, determines that such allotment for the producer is inadequate because of an insufficient State or area allotment or because rice was not planted by the producer during all the preceding 5 years, taking into consideration the producer's investment in equipment and other facilities for the production of rice and the acreage required to make such allotment for the producer an economic unit: *Provided*, That the total of such increases in allotments under this paragraph shall not exceed the acreage, if any, made available to the State from the national reserve provided for by section 353(a) of the act.

**§ 730.69 Determination of allotments for new producers.**

(a) *Determination.* In a producer State, the State committee, with the assistance of the county committee, shall determine for each eligible new producer, a rice acreage allotment and allocate such allotment to the farm or farms in accordance with the provisions of § 730.72.

(b) *Information required.* Each person desiring an allotment as a new producer shall file an application therefor with the county committee on or before January 31 of the current year. Each such application shall contain the following information: The name, address, and age of the applicant; whether arrangements have been made for the land and water necessary to produce a rice crop in the current year; identification of the farm to which the requested allotment will be allocated; the source from which irrigation water will be obtained; whether the applicant owns, or otherwise has readily available, adequate equipment for producing rice in the current year; whether the applicant expects to obtain more than 50 percent of his livelihood in the current year from farming operations on the farm to which the requested allotment will be allocated; and the acreage allotment requested by the applicant.

(c) *Eligibility requirements.* To be eligible for an allotment as a new producer, the applicant shall timely file his application for an allotment and shall establish to the satisfaction of the county committee that:

(1) He does not own or operate any other farm in the United States for which a rice allotment is established for the current crop year;

(2) The land on the farm to which the requested allotment will be allocated is suitable for the production of rice;

(3) He owns or otherwise has readily available, adequate equipment and irrigation water necessary for the production of rice on the farm;

(4) He expects to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products from the farm to which the requested allotment will be allocated unless the county committee, with the approval of a representative of the State committee, determines that the income of the applicant, from the farm or otherwise, will not provide a reasonable standard of living for the applicant and his family. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the applicant's ability to provide a reasonable standard of living for himself and his family; and

(5) He has not filed his application for the purpose of obtaining an allotment as a new producer which would be used, if obtained, as a device to offset a reduction in the rice acreage of an old producer with whom he was formerly, or will be, associated in financing, producing, or marketing rice.

(d) *Income determination.* In making a determination with respect to paragraph (c)(4) of this section the following will apply:

(1) Credit will not be allowed for estimated return from the production of

the rice planted on the requested allotment.

(2) Credit will be allowed for estimated value of home gardens, livestock, and livestock products, poultry, or other agricultural products produced on the farm.

(3) Where the applicant is a partnership, each partner shall expect to obtain more than 50 percent of his income during the current year from agricultural commodities or products from the farm.

(4) Where the applicant is a corporation, it shall have no major corporate purpose other than operation and ownership, where applicable, of the farm, and the officers and general manager of the corporation shall expect to obtain more than 50 percent of their income, including dividends and salary, from the corporation.

(5) Where the applicant is a trustee under a trust arrangement, the trustee and the beneficiary of the trust each shall expect to obtain during the current year more than 50 percent of his income from agricultural commodities or products from the farm.

(e) *Total allotment limited to reserve.* The sum of the acreages allocated to eligible new producers in a State shall not exceed the reserve established by the State committee in accordance with § 730.68.

(f) *No State reserve.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, applications for new producer allotments shall not be accepted for any year for a State for which no State reserve is established for such allotments.

**§ 730.70 Notice of producer allotment.**

The allotment as determined under § 730.68 or § 730.69 as applicable, for each producer, when approved by a representative of the State committee, shall be the official producer allotment for the producer. The county committee shall officially notify each producer, at his last known address, of the producer allotment established for him. The notice shall bear the actual or facsimile signature of a county committeeman. The facsimile signature may be affixed by the county committeeman or by an employee of the county office. Insofar as practicable, all producer allotment notices in a county shall be mailed on the same date and in time to be received prior to the date on which the referendum to determine whether farmers favor or oppose rice marketing quotas will be held. A copy of each notice approved shall be kept freely available in the county office for a period of not less than 30 calendar days. At the end of such period, the copies of the notices shall remain readily available for further public inspection.

**§ 730.71 Right to appeal producer allotment.**

Any producer in a producer State or area who is dissatisfied with his producer allotment may request reconsideration of such producer allotment in accordance with Part 780 of this chapter, Appeal Regulations, and any amendments thereto. When a producer has been officially notified of the rice allotment for the farm on which he will be engaged in the production of rice in the current year, he may request a review of such farm allotment in accordance with provisions of § 730.85.

**§ 730.72 Allocation of producer allotments to farms.**

(a) *Request for allocation.* Each producer who desires to have all or any part of his producer allotment taken into consideration in the establishment of the farm allotment for any farm on which he will be engaged in the production of rice in the current year shall, not later than the final date set forth herein, file a request with the county committee for allocating his producer allotment as determined under §§ 730.68 and 730.69 or § 730.71, as applicable, to such farm or farms, if his allotment acreage is to be considered when establishing the farm allotment. Each request shall be in writing and insofar as the producer has personal knowledge, contain the name (or code number) of the State and county in which the farm is located and the farm number; the total acres in the farm; the cropland acres; the name and address of the farm operator and the name and address of the farm owner where different from the farm operator; the name and address of the applicant; the location of the farm; the applicant's producer allotment; the allotment to be allocated to the farm; the applicant's interest in the rice crop to be produced on the allotment allocated to the farm by virtue of furnishing the land, labor, water, equipment, or producer allotment, and the applicant's percentage share in the production from such acreage.

(b) *Filing date.* The final date for the filing of an application or the correction of any application previously filed under paragraph (a) of this section shall, except as provided herein, be May 1 of the current year. If a producer is unable to file his application on or before this date because of (1) an error on the part of an employee of the county or State committee or (2) physical reasons beyond his control, including inability to plant his intended acreage on the farm indicated, an application accompanied by his written certification giving his reasons for failure to file previously or for correcting a previously filed application may be accepted for further consideration. If the county committee, with the approval of the State executive director, determines from the facts and circumstances that the producer's failure to file previously or his reason for changing an application is because of an error on the part of an employee of the county or State committee, or because of physical reasons beyond his control, the application may be accepted as being timely filed. Any application for the allocation of producer allotment to a farm that is not timely filed in accordance with the provisions of this section shall be disapproved and such allotment cannot be considered when the allotment for the farm is established.

(c) *Conditions of allocation.* The State committee, with the assistance of county committees, shall allocate the allotment determined under § 730.68, § 730.69, or § 730.71, as applicable, for a producer to the farm or farms on which it has been determined that the producer will be engaged in the production of rice in the current year if an application for the allocation of his producer allotment, or any part thereof, was timely filed. The sum of the producer allotments allocated to any farm, adjusted where necessary to establish an allotment for the farm within its capabilities for producing rice consistent with practical farming operations, taking into consideration crop-rotation practices; the land, labor, water, and equipment available for the production of rice, the sizes of fields; the arrangement of levees and drainage facilities; the soil and other physical factors affecting the production of rice on the farm in the current year and the acreage available for such adjustments, shall be the official farm allotment for the farm: *Provided,* That the total acreage allocated to all farms for any producer shall not exceed such producer's allotment determined under § 730.68, § 730.69, or § 730.71, as applicable, by more than 5 per centum or 5 acres, whichever is larger. The sum of the upward adjustments in allocated acreages under this paragraph shall be limited to the sum of the downward adjustments that are not released by the producer for reapportionment to other farms under § 730.75. If the farm history acreage on any farm in which a new producer has an interest in such acreage is less than 75 percent of the farm allotment, the new producer's allotment shall be reduced to the extent of his share in the underplanted allotment for the farm. The acreage resulting from the reduction of new producer allotments under this section shall be transferred to the reserve available to the State committee for appeals, corrections, missed farms, and adjustments under § 730.68.

(d) *Determination of county committee.* Before approving a producer's request for the allocation of allotment to a farm, the county committee shall satisfy itself that the applicant will be engaged in the production of rice on such farm or, if not, that he is requesting the allocation of his producer allotment to the farm for the purpose of participating in the conservation and cropland adjustment programs. To be considered engaged in the production of rice, the applicant shall meet the definition of the term "engaged in the production of rice" as stated in § 730.62(b)(3).

(e) *Hearing to determine if a producer was engaged in the production of rice.* If the county or State committee has reason to believe, after the establishment of any farm allotment in accordance with this section, that a producer whose allotment was allocated to such farm is not, or was not, in fact engaged in the production of the rice crop produced on the farm in the year in question, a hearing shall be scheduled by the county committee and the producer shall be invited to be present, or to be represented, at which time he shall be given an opportunity to substantiate his claim

that he is, or was, engaged in the production of rice on the farm as indicated at the time of filing his request for the allocation of this producer allotment to the farm. A summary of the evidence presented at the hearing shall be furnished the State committee. If the county committee, with State committee approval, or the State committee finds that the producer is not, or was not, engaged in the production of the crop on the farm, except where allocation was made for the purpose of participating in the conservation and cropland adjustment programs, the county committee or the State committee shall recall the producer's allotment previously allocated to the farm and adjust the farm allotment accordingly. The county committee shall notify the farm operator of the revised farm allotment. The notice shall be on an official form and shall be accompanied by a letter of explanation as to the reason such action was taken to reduce the farm allotment. A copy of the notice and letter shell be forwarded to all persons engaged in the production of rice on the farm. Any allotment recalled under this section will not be available for apportionment or reallocation to any other farm.

(f) *Allocation limitations.* Notwithstanding any other provisions of this section, approval shall not be given to a producer's request for allocation of his allotment to:

(1) Federally owned land on which a restrictive lease prohibiting the planting of rice is in effect; or

(2) Any farm other than the farm on which the producer has a contract or agreement under a land use adjustment program in effect, unless he allocates to such farm in the current year, the smaller of (i) his producer allotment or (ii) and acreage equal to the average of his producer allotment contribution to the farm allotment which was planted during the years used to establish the farm's land use adjustment program allotment or base, or unless such contract or agreement is modified or terminated as provided under regulations applicable to the land use adjustment programs.

(g) *Allocation across county lines.* A producer who desires to allocate all or any part of his producer allotment to a farm located in a county within the same State or administrative area of a State other than the county in which his producer allotment was established shall file a request with the county committee of the county in which his producer allotment was established to transfer such producer allotment to the county in which the farm to which he desires to allocate his producer allotment is located. The final date for the filing of an application for the transfer of producer allotment from one county to another or the correction of an application previously filed under this paragraph shall, except as provided in this paragraph, be April 15 of the current year for all producer States except the producer administrative area of Louisiana for which such final date shall, except as provided in this paragraph, be April 1 of the current year. If a producer who desires to transfer his producer allotment to another county is unable to file an application for such transfer on or before such date because of (1) an error on the part of an employee of the county or State committee or (2) physical reasons beyond his control, an application accompanied by his written certification giving his reasons for failure to file previously or for correcting a previously filed application may be accepted for further consideration. If the county committee, with approval of the State executive director, determines from the facts and circumstances that the producer's failure to file previously or his reason for changing an application is because of an error on the part of an employee of the county or State committee, or because of physical reasons beyond his control, the application may be accepted as being timely filed. Any application for the transfer of producer allotment from one county to another that is not timely filed in accordance with the provisions of this paragraph shall be disapproved.

(h) *Hearing to determine status of a producer requesting allocation across county lines.* In any case where an application for transfer of a producer allotment to another county has been approved under paragraph (g) of this section, and an application to allocate such transferred producer allotment to a farm has been timely filed, the county committee shall schedule a hearing and the operator of the farm to which allocation is requested shall be invited to be present. Such operator shall satisfy the county committee that the producer requesting the allocation will be engaged in the production of rice on the farm to the extent shown on the application for allocation. If the application for allocation is approved by the county committee and the representative of the State committee, the provisions of paragraph (c) of this section shall apply. If the application for allocation is disapproved by the county committee or the representative of the State committee, the applicant shall be notified in writing giving reasons for disapproval.

**§ 730.73 Determination of allotments for farm to which producer allotments have been allocated.**

The sum of the allotments determined for both old and new producers that are allocated to any farm under § 730.72, including the adjustments, if any, as provided for under paragraph (c) of such section, shall be the allotment for the farm for the current year. The sum of the farm allotments so determined in any producer State or area shall not exceed the State allotment for such State or area and the acreage, if any, made available from the national reserve provided for by section 353(a) of the Act, minus any balance which is held in reserve for new producers, appeals, corrections, and missed producers.

**§ 730.74 Mailing of notices of allotments for farms to which producer allotments have been allocated.**

An official notice of the farm allotment established for a farm in accordance with § 730.73 shall be mailed by the county committee to the operator of the farm and to all other persons who will be engaged in the production of rice on such farm in the current year. A copy of each notice approved shall be kept freely available in the county office for a period of not less than 30 calendar days. At the end of this period, the copies of the notices shall remain readily available for further public inspection.

**§ 730.75 Release and reapportionment of producer rice allotments.**

(a) *Release.* In a producer State or area, a producer may, not later than the applicable closing date provided in this paragraph, voluntarily release to the county committee all or any part of his producer allotment that will not be allocated to a farm in the current year, except that the following producer allotments shall not be released:

(1) Producer allotment covered by a contract or agreement under the conservation and cropland adjustment programs; and

(2) The allotment established for any new producer.

Any allotment released shall be deducted from the allotment established for the producer, but will be regarded as having been planted in the current year by the producer releasing the allotment if the producer is otherwise eligible for an old producer allotment. Any part of a producer's allotment which the producer does not allocate to his farm by reason of a field-size adjustment under § 730.72 (c) shall, upon request of the producer be considered as released allotment under this paragraph. The closing dates for filing a written release of rice allotment shall be as follows:

| | |
|---|---|
| California | Apr. 1 |
| Florida | Mar. 15 |
| Louisiana[1] | Mar. 1 |
| South Carolina | Apr. 1 |
| Tennessee | Apr. 1 |
| Texas | Apr. 20 |

[1] Producer administrative area.

(b) *Reapportionment.* Producer allotment released to the county committee in accordance with paragraph (a) of this section may be reapportioned by the county committee to other producers (old or new) in the same county by whom a request for increase in allotment has been timely made. Apportionments shall be made in amounts determined to be fair and reasonable on the basis of the production of rice by the producer during the 5 years immediately preceding the current year; previous allotments established for the producer; abnormal conditions affecting acreage; land, labor, water, and equipment available for the production of rice; crop-rotation practices; and the soil and other physical factors affecting the production of rice. The closing date for reapportionment to

farms of allotment released in each producer State or area shall be a date not later than 15 days after the applicable date for release.

(c) *Request for increase.* To be eligible for an increase in farm allotment from released allotment a written request shall be filed by the applicant on or before the applicable release date in paragraph (a) of this section: *Provided,* That a verbal request submitted on or before such date may be accepted where the county committee determines that the applicant was prevented from making a written request by conditions beyond his control.

In either event, only those farms for which a request is timely made shall be given consideration when reapportioning released allotment to farms in the State or area.

(d) *Approval for State committee.* The release and reapportionment of allotments under this section shall not become effective until approved by a representative of the State committee.

**§ 730.76 Succession of interest in producer allotments.**

(a) *Conditions for withdrawal from the production of rice.* (1) If a producer dies or withdraws from the production of rice, his allotment and related history acreages during the applicable base period may be transferred under the provisions of this section to another person or persons: *Provided,* That if a producer has a contract or agreement under a land use adjustment program in effect on a farm to which he allocated rice allotment that was planted during the 2 years prior to entering into such contract or agreement and he is currently receiving a payment under such program, his producer rice allotment and related history shall not be available for transfer under the provisions of this section for the duration of such contract or agreement unless such contract or agreement is modified or terminated as provided under regulations applicable to the land use adjustment programs: *Provided further,* That a person for whom a new producer allotment is approved shall be engaged in the production of rice in at least four out of the next 5 years following approval before his allotment for the current year becomes available for transfer under the provisions of paragraph (b) (2), (3), or (4) of this section.

(2) Each such transfer under this section shall be contingent upon furnishing in writing on or before April 1 of the current year all pertinent information requested by the county committee. Each such transfer will be subject to the approval of the county committee and a representative of the State committee. The transferor's signature date shown on the notice of withdrawal shall be the effective date of the transfer: *Provided,* That the county committee and a representative of the State committee find that the conditions applicable to the transfer of allotment under this section have been met. If it is found that any of the required conditions has not been met, the notice of withdrawal shall be canceled and the interested producers shall be so notified in writing showing reasons for cancellation of the transfer of allotment.

(3) If a producer failed to file an application for transfer of allotment and related history acreage on or before April 1 because of (i) physical reasons beyond his control; (ii) an error on the part of an employee of the county or State committee, or (iii) failure of an employee of the county or State committee to furnish, upon request, full information relating to transfers, an application accompanied by his written certification giving his reasons for failure to file previously may be accepted for further consideration. Any application filed after April 1 of the current year shall be considered for approval in the same manner as applications for the allocation of producer allotment to farms filed under the provisions of paragraph (b) of § 730.72.

(b) *Withdrawal provisions.* (1) If a producer dies, his current allotment and related rice history acreage during the applicable base period shall be apportioned in whole or in part among his heirs or devisees according to the extent to which they may continue or have continued, his farming operations. The heirs or devisees, or their representative, shall furnish the county committee in writing at the earliest practicable date, the names and addresses of the heirs or devisees and the extent each will continue the farming operations of the deceased. The percentage of the total allotment of the deceased that each will receive shall be determined on the basis of the information furnished by the heirs or devisees and any other pertinent information. The rice history acreages credited to the deceased during the applicable base period shall be divided among the heirs or devisees in the same proportion that the allotment is divided.

(2) If a producer withdraws in whole or in part from the production of rice in favor of a member or members of his family who will succeed to his farming operations, that portion of his current allotment and related rice history acreage during the applicable base period as may be ascribed to such withdrawal, may be transferred to such family member or members. For the purpose of this subparagraph (2), a member of the transferor's family shall be limited to the transferor's spouse, father, mother, brother, sister, son, daughter, brother-in-law, son-in-law, grandson, granddaughter, nephew, niece, or any other relative who would be entitled to succeed to the transferor's estate upon death, intestate, according to the laws of the State in which the transferor resides. The transferor shall furnish the county committee in writing at the earliest practicable date, the names and addresses of the transferees, their relationship to him and the extent to which he is to be succeeded in his farming operations by them. The current allotment and related rice history acreages credited to the transferor during the applicable base period shall be divided among the transferor, when applicable, and the transferees in accordance with the transferor's request.

(3) (i) If a producer permanently withdraws from the production of rice as provided in this subparagraph (3), his allotment current at the time of such withdrawal and related rice history acreage during the applicable base period may be transferred to another producer or producers who have had previous rice producing experience, provided the transferee or transferees acquire, except for land, the transferor's entire rice farming operation, including rice production and harvesting equipment and irrigation equipment not permanently attached to the land, except such equipment which will be used by the transferor for farming operations other than rice production, as determined by the county committee with the concurrence of the State committee. The transferor at the earliest practicable date shall inform the county committee in writing of his intention to withdraw from the production of rice and the crop year for which the withdrawal is to become effective. He shall also furnish the names and addresses of the persons who will succeed him in his rice farming operations and the percentage of his current allotment that each person is to receive. The related rice history acreages credited to the transferor during the applicable base period shall be divided among the transferees in the same proportions that the allotment is divided. To qualify as having had previous rice producing experience as referred to in this subparagraph (3), the transferee must have actually participated in producing, harvesting, and marketing one or more crops of rice as a producer.

(ii) In order for the transfer to remain effective, the transferee must actually plant or cause to be planted at least 90 percent of his producer allotment (after release and before reapportionment), including the allotment determined on the basis of the rice history acreage acquired from the transferor, for at least three out of the next 4 years following the transfer. If the transferee fails to comply with this minimum planting provision, the transfer shall become invalid and the county committee shall reduce the transferee's allotment for the year current at the time of such failure in the same proportion that his producer allotment, immediately before the transfer, bears to the total allotment established for the producer as a result of the transfer. The rice history acreages credited to the transferee for each year of the period the transfer was in effect shall be reduced in the same proportion as the allotment is reduced.

For the purpose of this subdivision (ii) the term transferee shall include the person or persons who are the successor(s) in interest to the transferee's producer allotment under subparagraphs 1, 2, and 4 of this paragraph (b), and the successor corporation where a corporate transferee is merged or consolidated with another corporation.

(4) If a partnership is dissolved, the partnership's current allotment and related history of rice production shall be divided among the partners in such proportion as agreed upon in writing by the partners or if the partners are unable to

agree, among the partners in the same proportion that each partner had an interest in the partnership: *Provided*, That if a partnership was formed in a year in which allotments were in effect and is dissolved in less than three consecutive crop years after the partnership became effective, the allotment established for the partnership and rice history acreage credited to the partnership for each of the years during its existence shall be divided among the partners in the same proportion that each partner contributed to the allotment established for the partnership at the time such partnership was formed and the rice history acreage credited to the partnership for the remaining years of the applicable base period shall revert to the person to whom it was originally credited.

(c) *Conditions for reentry into the production of rice.* A producer who withdraws in whole from the production of rice under the provisions of paragraph (b) (2) of this section, or who withdraws from the production of rice under the provisions of paragraph (b) (3) of this section, or who transfers his entire interest in the production of rice to the remaining partner(s) under the provisions of paragraph (b) (4) of this section when the partnership is dissolved, shall not be eligible for a producer allotment for any year subsequent to such transfer, except to the extent that he may become eligible for an allotment on the basis of rice history acquired in a year (subsequent to the transfer) for which rice allotments are not in effect: *Provided*, That a producer who has withdrawn from the production of rice as provided in paragraph (b) (2) or (4) of this section may become a rice producer and reenter the production of rice as provided in paragraph (b) (1) or (2) of this section.

FARM ALLOTMENTS BASED ON PAST PRODUCTION OF RICE ON FARMS

**§ 730.77 Report of farm data.**

In a farm State, each producer, to the extent that such information is found necessary and is not already available to the county committee, shall furnish the county committee of the county in which such farm is located, information requested by the county committee relative to changes in operations or control of the farm, size of the farm, or changes in the acreage of cropland on the farm. Information not so furnished shall be determined or appraised by the county committees on the basis of records in the county offices, available production and sales records, and other available information.

**§ 730.78 Establishment of preliminary allotments for old farms.**

(a) *Basic factors.* In a farm State, the past production of rice on the farms and the acreage allotments previously established for such farms; abnormal conditions affecting acreage; land, labor, and equipment available for the production of rice; crop-rotation practices; and the soil and other physical factors affecting the production of rice are the factors for apportioning the State allotment among counties and, less appropriate reserves, to old farms. To reflect these factors, the county committee with the approval of the State committee or its representative shall establish a preliminary allotment of rice for the current year for each old farm in the county. The fact that the production of rice is restricted on federally owned lands on which there are restrictive leases shall not be interpreted to mean that preliminary allotments (and effective allotments) may be established at a level below those established for similar farms. Prior to establishing preliminary allotments in the county, the county committee shall determine for each old farm the farm rice history acreage on the farm for the year immediately preceding the year for which the allotment is being established.

(b) *Farm rice history acreage.* The farm rice history acreage shall be:

(1) If the farm consists of federally owned land and a restrictive lease prohibiting the planting of rice is in effect, the rice history acreage shall be the farm allotment.

(2) For a farm to which subparagraph (1) of this paragraph is not applicable if 75 percent or more of the farm allotment (after release and before reapportionment) is planted in the year for which the rice history acreage is being determined or in either of the two immediately preceding years, the rice history acreage will be the farm allotment before release and before reapportionment.

(3) For a farm to which subparagraph (1) of this paragraph is not applicable if less than 75 percent of the farm allotment (after release and before reapportionment) is planted in the year for which the rice history acreage is being determined and in each of the 2 immediately preceding years, the rice history acreage will be the smaller of the farm allotment before release and before reapportionment or the sum of:

(i) Acreage released for reapportionment.

(ii) Rice acreage determined for the farm.

(iii) Acreage preserved under the provisions of Part 719 of this chapter.

(iv) Acreage reduced due to cropland limitations.

(v) Acreage underplanted in the current year to deplete stored excess rice produced in a prior year.

(c) *Maximum farm history limited to allotment.* Notwithstanding the provisions of paragraph (b) of this section, the rice history acreage for any farm shall not exceed the allotment (before release and before reapportionment) determined for such farm.

(d) *Recommended farm preliminary allotment.* (1) If the county committee finds for any farm that the farm rice history acreage for the farm in the preceding year adequately reflects the factors referred to in paragraph (a) of this section such acreage shall be the recommended preliminary allotment for the farm for the current year. In making such finding, the county committee shall take into consideration the factors referred to in subparagraph (2) of this paragraph.

(2) If the county committee finds that the farm rice history acreage for any farm in the preceding year does not adequately reflect the factors referred to in paragraph (a) of this section because the farm rice history acreage in the preceding year on such farm is substantially above or below the farm rice history acreage on other farms in the county which are similar with respect to:

(i) The acreage of cropland on the farm available for the production of rice;

(ii) The number of rice producing tenants or other labor on the farm;

(iii) The equipment available for producing a rice crop;

(iv) The soil, water, and other physical factors affecting the production of rice; and

(v) The established crop-rotation system being carried out on the farm; the farm rice history acreage in the preceding year on such farm shall, for the purpose of establishing a recommended preliminary allotment for the current year, be adjusted so as to adequately reflect the factors referred to in paragraph (a) of this section: *Provided*, That in no case shall such adjusted acreage exceed 110 percent or be less than 90 percent of the allotment established for such farm for the preceding year.

(3) If a definitely established crop-rotation system is being carried out on a farm such adjusted acreage shall not exceed the largest or be less than the smallest allotment established for such farm for any year during the 3 years immediately preceding the current year: *Provided*, That if a zero allotment was established for a farm in each of such years because an established crop-rotation system is being carried out on such farm and under such a system rice will be planted on the farm in the current year, the adjusted acreage shall not exceed the largest rice history acreage for the farm during the 5 years immediately preceding the current year: *Provided further*, That if rice was planted on a farm in each of the 3 years immediately preceding the current year and it is determined that no rice will be planted on the farm in the current year under such a system, an adjusted acreage of zero shall be established for such farm.

**§ 730.79 Determination of allotments for old farms.**

(a) *Apportioning allotment.* The preliminary allotments of rice determined under § 730.78, adjusted pro rata to the county allotment minus the reserve of not to exceed 5 per centum of the county allotment for appeals and corrections, missed farms, and adjustments, shall be the allotments for old farms. If, as a result of corrections, the total acreage allotted to farms in any county for which corrections are made is less than the total acreage originally allotted to such farms, such difference in acreage shall be added to such county reserve without regard to the limitation thereon.

(b) *Adjustment for small allotments.* The allotment determined for any farm

under paragraph (a) of this section may be increased if the county committee determines that the allotment is small in relation to allotments for other old farms in the county on the basis of the crop-rotation practices; the land, labor, water, and equipment available for the production of rice and the soil and other physical factors affecting the production of rice; taking into consideration the acreage required for the economic operation of the farm and the acreage available for such increases: *Provided,* That such increased allotments shall not exceed the allotments determined for other farms which are similar with respect to the factors set forth above. The acreage used in any county for increasing allotments under this paragraph shall not exceed the reserve acreage referred to in paragraph (a) of this section.

(c) *Adjustment for inadequate allotments.* The allotment determined for any farm under paragraph (a) or (b) of this section may be increased if the county committee determines that such allotment is inadequate for the farm because of an insufficient county allotment or because rice was not planted on the farm during all of the preceding 5 years, taking into consideration the land, labor, water, and equipment available for the production of rice and the acreage required for the economic operation of the farm: *Provided,* That the total of such increases in allotments under this paragraph shall not exceed the acreage made available to the county from the national reserve provided for by section 353(a) of the Act.

(d) *Exchange of rice allotment for cotton allotment.* The allotment determined for any farm under paragraph (a), (b), or (c) of this section may be exchanged for cotton allotment as provided in Part 722 of this chapter, cotton, as amended (33 F.R. 895).

(e) *Adjustment for cropland limitation.* The allotment determined for any farm under paragraphs (a), (b), (c), and (d) of this section may be reduced for the current year if the sum of the feed grain base, total allotments, and sugar proportionate shares exceeds the cropland for the farm for the current year and the farm operator requests in writing to reduce the rice allotment in lieu of the feed grain base: *Provided,* That such reduction shall not exceed the acreage by which the sum of the feed grain base, total allotments, and sugar proportionate shares exceeds the cropland for the farm: *Provided further,* That such reduction shall be effective for the current year only. For purposes of establishing future State, county, and farm acreage allotments, the acreage not planted under the farm allotment because of a reduction under this paragraph shall be regarded as planted on the farm.

**§ 730.80 Determination of allotments for new farms.**

(a) *Basis.* In a farm State, the State committee with the assistance of the county committee shall determine a rice allotment for the current year for each eligible new farm for which an allotment is requested in writing on or before January 31 of the current year. The allotments for eligible new farms shall be determined on the basis of tillable land suitable for the production of rice; labor, water, and equipment available for the production of rice and the soil and other physical factors affecting the production of rice and shall not exceed the allotments determined under § 730.79 for old farms which are similar with respect to such factors.

(b) *Information required.* The request for a new farm rice allotment shall be made by the farm operator, who shall furnish the county committee with the following information relating to the farm for which the allotment is requested; the name and address of the farm operator; identification of the farm for which the allotment is being requested, the acreage of total land, cropland, and tillable land on the farm suitable for the production of rice and for which water and other irrigation facilities are readily available for the current year; the sum of other allotments established for the farm for the current year; whether the applicant owns or otherwise has readily available adequate equipment for producing rice in the current year; whether or not either the owner or the operator will own or operate any other farm in the United States on which a rice allotment is established for the current year; whether the applicant expects to obtain more than 50 percent of his livelihood in the current year from farming operation on the farm for which the allotment is being requested; and the allotment requested by the applicant.

(c) *Eligibility requirements.* To be eligible for an allotment as a new farm, the applicant shall timely file his application for an allotment and shall establish to the satisfaction of the county committee that (1) neither the operator nor the owner of the farm covered by the application owns or operates any other farm in the United States for which a rice allotment is established for the current crop year; (2) the available land, type of soil, and topography of the land on the farm for which the allotment is requested is suitable for the production of rice; (3) he owns, or otherwise has readily available, adequate equipment and irrigation water necessary for the production of rice on the farm, and (4) he expects to obtain, during the current year, more than 50 percent of his income from the production of agricultural commodities or products from the farm for which the new farm allotment application is filed unless the county committee, with the approval of a representative of the State committee, determines that the income of the applicant, from the farm or otherwise, will not provide a reasonable standard of living for the applicant and his family. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the applicant's abiilty to provide a reasonable standard of living for himself and his family.

(d) *Income determination.* In making a determination with respect to paragraph (c)(4) of this section the following will apply:

(1) Credit will not be allowed for estimated return from the production of the rice planted on the requested allotment.

(2) Credit will be allowed for estimated value of home gardens, livestock and livestock products, poultry, or other agricultural products produced on the farm.

(3) Where the farm operator is a partnership, each partner shall expect to obtain, during the current year, more than 50 percent of his income from agricultural commodities or products from the farm.

(4) Where the farm operator is a corporation, it shall have no major corporate purpose other than operation and ownership, where applicable, of the farm. The officers and general manager of the corporation shall expect to obtain more than 50 percent of their income, including dividends and salary, from the corporation.

(5) Where the farm operator is a trustee under a trust arrangement for a farm, the trustee and the beneficiary of the trust each shall expect to obtain during the current year more than 50 percent of his income from agricultural commodities or products from the farm.

(e) *Individual farm allotment limitations.* The allotment for any new farm shall not exceed the smaller of (1) the allotment requested or (2) the acreage of tillable land on the farm suitable for the production of rice and for which water and other irrigation facilities are readily available: *Provided,* That if the acreage planted to rice on the farm in the current year is less than 75 percent of the allotment established under this section, the allotment for the farm shall be reduced to the acreage planted to rice on the farm. The acreage resulting from any such reduction in each county shall be transferred to the reserve available to the county committee for appeals and corrections, missed farms, and adjustments as provided for under § 730.79.

(f) *Total farm allotments limited to reserve.* The sum of all new farm allotments established in any State or area, as applicable, in accordance with the provisions of this section shall not exceed the reserve made available by the State committee for new farms in the State or area, as applicable, and such reserve shall not exceed 3 percent of the applicable State or area allotment. Any part of such reserve that is not used for the establishment of new farm allotments shall not be used for any other purpose.

(g) *Eligibility limitations.* Notwithstanding any other provision of this section, (1) a farm which includes land acquired by an agency having the right of eminent domain for which the entire rice allotment was pooled pursuant to

Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm rice allotment for a period of 5 years from the date the former owner was displaced from the acquired farm, (2) a farm which includes land for which no rice allotment was established because the owner of a parent farm did not designate rice allotment for such land in making a reconstitution pursuant to Part 719 of this chapter, shall not be eligible for a new farm rice allotment for a period of 5 years beginning with the year in which the reconstitution becomes effective.

(h) *No State reserve.* Notwithstanding the provisions of paragraph (a) of this section, requests for new farm allotments shall not be accepted for any year for a State for which no State reserve is established for such allotments.

**§ 730.81 Mailing of farm allotment notices.**

Notice of the farm allotment shall be mailed to the operator of the farm and to each other producer on the farm who will have an interest in the rice crop on the farm in the current year. Such notice shall bear the actual or facsimile signature of a member of the county committee. The facsimile signature may be affixed by the county committeeman or by an employee of the county office. Insofar as practicable, all allotment notices in the county shall be mailed on the same date and in time to be received prior to the date on which the referendum to determine whether farmers favor or oppose farm marketing quotas will be held. A copy of each such notice approved shall be kept freely available in the county office for a period of not less than 30 calendar days. At the end of such period, the copies of the notices shall remain readily available for further public inspection.

**§ 730.82 Allotment for farms divided or combined.**

The allotment determined for a farm shall, if there is a division or combination, be apportioned in accordance with Part 719 of this chapter, Reconstitution of Farms, Allotments, and Bases.

**§ 730.83 Farms removed from agricultural production because of acquisition by Federal, State, or other agency having right of eminent domain.**

The allotment determined for a farm shall, if the farm is acquired for any purpose other than for the continued production of allotted crops by any Federal, State, or other agency having the right of eminent domain, become available for use in providing allotments for other farms owned by the owner so displaced, and such apportionment shall be made in accordance with Part 719 of this chapter, Reconstitution of Farms, Allotments, and Bases.

**§ 730.84 Release and reapportionment of farm rice allotments.**

(a) *Release.* In a farm State or area, the operator of the farm may, not later than the applicable closing date provided for in this paragraph, voluntarily release to the county committee all or any part of the farm allotment that will not be planted in the current year, except that the following farm allotments shall not be released:

(1) Farm allotment covered by a contract or agreement under the conservation and cropland adjustment programs;

(2) The allotment established for any new farm;

(3) The allotment established for any farm consisting solely of federally owned land with a restrictive lease prohibiting the planting of rice; and

(4) The allotment for any farm for which the farm owner has filed a written objection at the office of the county committee prior to the release. In the case of a pooled allotment established for a farm acquired under the right of eminent domain, the displaced owner may release such allotment. Any allotment released shall be deducted from the allotment established for the farm, but will be regarded as having been planted in the current year if the farm is otherwise eligible for an old farm allotment. The closing dates in each farm State or area for the release of farm allotments shall be as follows:

| | |
|---|---|
| Arkansas | May 1 |
| Illinois | May 1 |
| Louisiana [1] | Mar. 1 |
| Mississippi | May 1 |
| Missouri | May 1 |
| North Carolina | Mar. 1 |
| Oklahoma | May 1 |

[1] Farm administrative area.

(b) *Reapportionment.* Farm allotment released to the county committee in accordance with paragraph (a) of this section may be reapportioned by the county committee to other farms (old or new) in the same county for which requests for increases in allotments have been timely made. Reapportionments shall be made in amounts determined to be fair and reasonable on the basis of the production of rice on the farm during the five years immediately preceding the current year; previous allotments established for the farm; abnormal conditions affecting acreage; land, labor, water, and equipment available for the production of rice; crop-rotation practices; and the soil and other physical factors affecting the production of rice. The closing date for reapportionment to farms of allotment released in each farm State or area shall be a date not later than 15 days after the applicable date for release.

(c) *Request for increase.* To be eligible for an increase in farm allotment from released allotment a written request shall be filed by the applicant on or before the applicable release date in paragraph (a) of this section: *Provided,* That a verbal request submitted on or before such date may be accepted where the county committee determines that the applicant was prevented from making a written request by conditions beyond his control.

In either event, only those farms for which a request is timely made shall be given consideration when reapportioning released allotment to farms in the State or area.

(d) *Approval.* The release and reapportionment of allotments under this section shall not become effective until approved by a representative of the State committee.

MISCELLANEOUS

**§ 730.85 Right to appeal farm allotment.**

(a) *Marketing quotas in effect.* If marketing quotas are in effect for the current year, any producer who is dissatisfied with the farm rice allotment established for the farm on which he will be engaged in the production of rice in the current year may appeal such farm allotment in accordance with Part 711 of this chapter, Marketing Quota Review Regulations, and any amendments thereto.

(b) *Marketing quotas not in effect.* If marketing quotas are not in effect for the current year, any producer who is dissatisfied with the farm rice allotment established for the farm on which he will be engaged in the production of rice in the current year may request reconsideration of such farm allotment in accordance with Part 780 of this chapter, Appeal Regulations, and any amendments thereto.

**§ 730.86 Applicability of regulations.**

(a) *Coverage.* The regulations in this subpart shall govern the establishment of farm and producer rice allotments in connection with the marketing quota and price support programs for the current year.

(b) *Contingency.* The regulations in this subpart are contingent upon the annual proclamation of a national acreage allotment of rice for the current year by the Secretary pursuant to section 353 of the Act.

**§ 730.87 Approval of reporting and record-keeping requirements.**

The reporting and recordkeeping requirements contained herein have been approved by, and subsequent reporting and recordkeeping requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date: 30 days after publication in the FEDERAL REGISTER.

[F.R. Doc. 68-11774; Filed, Sept. 26, 1968; 8:50 a.m.]

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

SUBCHAPTER E—DETERMINATION OF SUGAR COMMERCIALLY RECOVERABLE

## PART 833—MAINLAND CANE SUGAR AREA

### Sugar Commercially Recoverable From Sugarcane; 1968 Crop

Pursuant to the provisions of section 302(a) of the Sugar Act of 1948, as amended (hereinafter referred to as "act"), the following regulation is hereby issued:

**§ 833.15 Sugar commercially recoverable from sugarcane in the Mainland Cane Sugar Area.**

(a) *Definitions.* For the purpose of this section, the terms:

(1) "Trash" means leaves, that portion of the sugarcane which is removed by topping in the field, growth above the last formed joint of the sugarcane which has not been topped or has been topped above the last formed joint in the field, dirt and all other extraneous material.

(2) "Gross weight" of sugarcane means the total weight (short tons) of sugarcane, including trash, as delivered by a producer for sugar production.

(3) "Net weight" of sugarcane means:

(1) In Florida, the gross weight of sugarcane delivered by a producer to a processor's mill minus a deduction equal to the average percentage weight of trash determined to have been delivered with all sugarcane ground during the 1968-crop season at such mill.

(2) In Louisiana, the weight obtained by deducting the weight of trash determined to have been in sugarcane delivered by a producer from the gross weight of such sugarcane.

(b) *Recoverable sugar.* For the 1968 crop of sugarcane, the amount of sugar, in hundredweight, raw value, commercially recoverable from sugarcane grown on a farm in the Mainland Cane Sugar Area and marketed (or processed by the producer) for the extraction of sugar or liquid sugar, shall be obtained by multiplying the net weight of the sugarcane in tons by the rate of recoverability specified for the average percentage of sucrose in the normal juice of such sugarcane, as follows:

(1) *For farms in Louisiana.*

| *Percentage of sucrose in normal juice* [1] | *Rate of recoverable sugar (hundredweight) per net ton of sugarcane* |
|---|---|
| 5.0 | 0.397 |
| 6.0 | .585 |
| 7.0 | .783 |
| 8.0 | .963 |
| 9.0 | 1.104 |
| 10.0 | 1.289 |
| 11.0 | 1.474 |
| 12.0 | 1.651 |
| 13.0 | 1.826 |
| 14.0 | 2.000 |
| 15.0 | 2.170 |
| 16.0 | 2.337 |
| 17.0 | 2.501 |
| 18.0 | 2.670 |

(2) *For farms in Florida.*

| *Percentage of sucrose in normal juice* [1] | *Rate of recoverable sugar (hundredweight) per net ton of sugarcane* |
|---|---|
| 5.0 | 0.311 |
| 6.0 | .571 |
| 7.0 | .809 |
| 7.0 | .809 |
| 8.0 | 1.006 |
| 9.0 | 1.203 |
| 10.0 | 1.387 |
| 11.0 | 1.565 |
| 12.0 | 1.742 |
| 13.0 | 1.916 |
| 14.0 | 2.091 |
| 15.0 | 2.267 |
| 16.0 | 2.440 |
| 17.0 | 2.613 |
| 18.0 | 2.781 |

[1] Rates for the intervening tenths of 1 percent shall be calculated by interpolation and less than 5 percent or more than 18 percent shall be computed in proportion to the immediately preceding interval.

(c) *Processor mill procedures.* The procedures to be followed by processors in determining net sugarcane, trash, average percent sucrose in normal juice, average percent crusher juice sucrose, factory normal juice sucrose, factory crusher juice sucrose, percent purity of normal juice, and other related mill procedures and required reports are set forth in ASCS Handbook 8–SU entitled "Sampling, Testing, and Reporting for Louisiana Sugar Processors" and ASCS Handbook 9–SU entitled "Sampling, Testing, and Reporting for Florida Sugar Processors." Copies of the applicable handbook have been furnished each processor. Copies may be reviewed at the respective county ASCS offices. Copies of Handbook 8–SU may be obtained from the Louisiana State ASCS Office, 3737 Government Street, Alexandria, La. 71303. Copies of Handbook 9–SU may be obtained from the Florida State ASCS Office, 401 Southeast First Avenue, Gainesville, Fla. 32601.

STATEMENT OF BASES AND CONSIDERATIONS

Determinations of amounts of sugar commercially recoverable from sugar beets and sugarcane are required under section 302(a) of the Act to establish the amounts of sugar upon which payments are to be made pursuant to the Act.

The rates of sugar commercially recoverable at the various normal juice sucrose levels, as specified in this regulation, were calculated from data reported to the Department by the processors of sugarcane for sugar in each of the States of Florida and Louisiana. This data is determined and reported in accordance with procedures and reporting requirements set forth in Agricultural Stabilization and Conservation Service Handbook 8–SU entitled "Sampling, Testing, and Reporting for Louisiana Sugar Processors" and Handbook 9–SU entitled "Sampling, Testing, and Reporting for Florida Sugar Processors." Production data listed on other reports is also used. The calculation for the various normal juice sucrose levels made use of data representing averages in each State for the crop years 1963, 1964, 1965, 1966, and 1967 of each of the factors of normal juice extraction (the weight of normal juice extracted expressed as a percentage of the weight of gross sugarcane ground for all producers), boiling house efficiency (the ratio of the amount of sugar produced to the amount that could theoretically be produced), polarization of the sugar produced, and net sugarcane as a percent of gross sugarcane. The calculation also used the purity or retention factor which correlates purity of normal juice with sugar recovery based on the well-established Winter-Carp formula. That formula is expressed mathematically as follows: Purity or Retention Factor = (1.4 − 40/P) in which P is purity of normal juice. For the purpose of this regulation, the computed average purity at each of the normal juice sucrose levels for the crop years 1963, 1964, 1965, 1966, and 1967 was used.

The rates for the 5 and 6 percent normal juice sucrose levels in Florida and the 5 through 8, 17, and 18 percent normal juice sucrose levels, inclusive, in Louisiana were calculated as above, except that sucrose-purity data at these levels were not available for all years of the base period.

In calculating sugar commercially recoverable, the data are used in the following manner: The product or normal juice extraction and boiling house efficiency is divided by the product of the polarization of sugar produced and net sugarcane as a percent of gross sugarcane. The result so obtained is multiplied by 2,000 to obtain a factor which when multiplied by a given normal juice sucrose and the purity or retention factor for that normal juice sucrose gives pounds of sugar per ton of net sugarcane. By use of the applicable raw value conversion factor, in accordance with section 101(h) of the Act, pounds of sugar per ton of net sugarcane are converted into sugar, commercially recoverable, raw value. Expressed mathematically the formula reads:

$$CRS, RV = \frac{NJE \times BHE \times 2{,}000 \times NJS \times PR \times RVCF}{(\text{Polarization of sugar}) \times (\text{net sugarcane, percent gross sugarcane})}$$

The rates determined average slightly higher than those for the preceding crop. These rates reflect changes in the average normal juice extraction, boiling house efficiency and normal juice sucrose purity relationships for the preceding five crops.

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

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 302, 303, 304, 61 Stat. 930, as amended, 931; 7 U.S.C. 1132, 1133, 1134)

Effective date: Date of publication.

Signed at Washington, D.C., on September 23, 1968.

CHAS. M. COX,
*Acting Deputy Administrator, State and County Operations.*

[F.R. Doc. 68-11775; Filed, Sept. 26, 1968; 8:51 a.m.]

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

## PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

### Expenses and Rate of Assessment and Carryover of Unexpended Funds

On September 10, 1968, notice of rule making was published in the FEDERAL REGISTER (33 F.R. 12779) regarding proposed expenses and the related rate of assessment for the fiscal period July 1, 1968, through June 30, 1969, pursuant to the marketing agreement, as amended,

and Order No. 927, as amended (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Control Committee (established pursuant to said amended marketing agreement and order), it is hereby found and determined that:

§ 927.208 **Expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and necessary to be incurred by the Control Committee during the period July 1, 1968, through June 30, 1969, will amount to $40,847.75.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 927.41, is fixed at $0.01 per standard western pear box of pears, or an equivalent of pears in other containers or in bulk.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal period ended June 30, 1968, in the amount of $4,571, shall be carried over as a reserve in accordance with the applicable provisions of § 927.42.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of fresh pears are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable pears handled during the aforesaid period; and (3) such period began on July 1, 1968, and the rate of assessment will automatically apply to all such pears beginning with such date.

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

Dated: September 24, 1968.

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

[F.R. Doc. 68-11776; Filed, Sept. 26, 1968; 8:51 a.m.]

# Title 10—ATOMIC ENERGY

## Chapter I—Atomic Energy Commission

## PART 9—PUBLIC RECORDS

### Miscellaneous Amendments

On June 29, 1967, the Atomic Energy Commission published in the FEDERAL REGISTER (32 F.R. 9213) amendments of its regulations, 10 CFR Part 1, Statement of Organization, Delegations, and General Information; 10 CFR Part 2, Rules of Practice; 10 CFR Part 3, Rules of Procedure in Contract Appeals; and 10 CFR Part 9, Public Records, which effectuated the provisions of Public Law 89–487, as amended and codified by Public Law 90–23 (5 U.S.C. Sec. 552), referred to as the Public Information Act of 1966.

Because these rules related solely to agency organization and practice and procedure, the Commission found that notice of proposed rule making and public procedure thereon were unnecessary and good cause existed to make the amendments effective on July 4, 1967. However, since these amendments were designed to provide information and guidance to members of the public regarding the availability of AEC records, the Commission invited all interested persons to submit written comments or suggestions regarding these amendments within 90 days after their effective date. After careful consideration of the comments received in response to the invitation and other factors involved, the Commission has adopted the amendments to 10 CFR Part 9 set forth below.

The present § 9.1 provides in part that Part 9 was not intended to limit any programmatic distribution of AEC information to the public. This section has been amended to state explicitly what was only implicit in the present § 9.1, namely that Part 9 is not intended to affect the dissemination or distribution of AEC or contractor originated information to the public pursuant to any AEC public, technical or other information program or policy, nor is it intended to restrict or limit the free flow of information between the AEC and its contractors or between the AEC and a Government agency. The amendment also adds a sentence to clarify that Part 9 applies to all AEC records, regardless of the date of the record.

The definition of "Record" in § 9.2(e) has been clarified with respect to the type of documentary material that constitutes an AEC record. The clarification will remove any inconsistency between this section and § 9.4.

Section 9.4 has been revised to be compatible with the amended § 9.2(e). Under the revision, it is made clear that records possessed by the AEC include those which may be in the physical possession of others.

The present § 9.5(a)(2)(ii) provides as an example of the type of record exempt under § 9.5(a)(2), "Negotiating techniques and positions including the fixed-fee policies of the AEC." Because this example is considered to be included in the example identified in subdivision (iii), "Bargaining positions and limitations," it has been deleted. As a consequence of this deletion, subdivisions (iii) and (iv) have been renumbered subdivisions (ii) and (iii).

Renumbered § 9.5(a)(2)(ii) has been revised to clarify that an AEC bargaining position or limitation in any matter involved in a negotiation is exempt from public disclosure until the negotiations are completed and the results are embodied in a record such as an executed contract which is not otherwise exempt from public disclosure.

The amendment of § 9.5(a)(4) is for the purpose of clarifying that trade secrets and business or financial information are exempt from public disclosure to the extent that the information would not customarily be released to the public by the originator.

The amendment of § 9.5(a)(5)(v) identifies documents awaiting patent review as one example of the type of record which is considered to be included in this exemption.

Subparagraph (6) of § 9.5(a) defines a clearly unwarranted invasion of personal privacy as meaning the disclosure of information which would be offensive to a reasonable man and which is not justified by a public policy to be considered of greater importance.

Subparagraph (10) of § 9.5(a) provides that records belonging to another Government agency are exempt from disclosure by the AEC but that requests for such records be promptly forwarded to the appropriate agency. Since such records may not be exempt from disclosure under the provisions of 5 U.S.C. section 552, the inclusion of these records in a list of records specifically exempt from disclosure by statute appeared inappropriate. Accordingly, subparagraph 10 has been transferred from paragraph (a) to a new paragraph (b). The new paragraph (b) has been amended for the purpose of additional clarity. The present paragraph (b) has been redesignated paragraph (c).

Section 9.7 has been revised to separate paragraph (a) into two paragraphs. The revised paragraph (a) identifies those records of the AEC which are available for public inspection only at the AEC Public Document Room.

The revised paragraph (b) of § 9.7 specifies that certain AEC records, presently available for public inspection only at the AEC Public Document Room, are also available for public inspection at the major operating field offices of the AEC.

A new paragraph (c) of § 9.7 incorporates the present paragraph (b), which specifies the hours during which the AEC Public Document Room is open and specifies the times during which the major operating field offices of the AEC will be open.

Section 9.8 has been completely revised to clarify the AEC procedures for making copies of records available to the public. Primarily the revision involves a reorganization of the content of the present section. Changes in § 9.8 of particular significance include a new provision for requesting records from the AEC when it is not convenient for a person to request the record from the AEC Public Document Room or a major operating field office of the AEC, and a new provision that, at the discretion of the AEC, requested records may be disclosed at AEC contractor's and subcontractor's facilities.

An amendment of § 9.9(f)(2) has been made to specify the AEC officials who make the determinations for waiving

charges for record searches and the reproduction of copies of records.

Because these amendments relate solely to agency organization and practice and procedure, the Commission has found that notice of proposed rule making and public procedure thereon are unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments of 10 CFR Part 9 are published as a document subject to codification to be effective 30 days after publication in the FEDERAL REGISTER.

1. Section 9.1 is amended to read as follows:

**§ 9.1 Scope.**

This part implements the provisions of 5 U.S.C. section 552 with respect to (a) the availability to the public of Atomic Energy Commission records for inspection and (b) obtaining copies of such records. This part does not affect the dissemination or distribution of AEC originated, or AEC contractor originated, information to the public pursuant to any AEC public, technical, or other information program or policy, nor is it intended to restrict or limit the free flow of information between the AEC and its contractors and subcontractors, or between the AEC and a Government agency. Except where specifically noted otherwise, this part applies to all records whether they predate or postdate July 4, 1967.

2. Paragraph (e) of § 9.2 is amended to read as follows:

**§ 9.2 Definitions.**

(e) "Record" means any book, paper, map, photograph, brochure, punch card, magnetic tape, paper tape, sound recording, pamphlet, slide, motion picture, or other documentary material regardless of form or characteristics, made by, in the possession of, or under the control of the AEC pursuant to Federal law or in connection with the transaction of public business as evidence of AEC organization, functions, policies, decisions, procedures, operations, programs or other activities. "Records" do not include objects or articles such as structures, furniture, tangible exhibits or models, or vehicles and equipment.

3. Section 9.4 is revised to read as follows:

**§ 9.4 Availability of records.**

Any identifiable record, whether in the possession of the AEC, its contractors, its subcontractors, or others, shall be made available for inspection and copying pursuant to the provisions of this part, upon request of any member of the public.

4. Subdivision (ii) of § 9.5(a)(2) is deleted and subdivisions (iii) and (iv) are renumbered (ii) and (iii).

5. Renumbered subdivision (ii) of § 9.5 (a)(2) is revised to read as set forth below.

6. Paragraph (4) of § 9.5(a) is amended to read as set forth below.

7. Subdivision (v) of § 9.5(a)(5) is amended to read as set forth below.

8. Paragraph (6) of § 9.5(a) is amended to read set forth below.

9. Subparagraph (10) of § 9.5(a) is deleted.

10. Paragraph (b) of § 9.5 is relettered paragraph (c) and a new paragraph (b) is added to read as set forth below.

**§ 9.5 Exemptions.**

(a) * * *

(2) * * *

(ii) Bargaining positions and limitations involved in a negotiation prior to the execution of a contract or the completion of the action to which the bargaining positions or limitations were applicable except as they may be exempt pursuant to other provisions of this section.

* * * * *

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential. Matter subject to this exemption is that which is customarily held in confidence by the originator. It includes, but is not limited to:

* * * * * *

(5) * * *

(v) Information scheduled for public release, but as to which premature release would be contrary to the public interest, such as documents awaiting patent review;

* * * * *

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For the purpose of this paragraph a clearly unwarranted invasion of personal privacy means disclosure of information which would be offensive to a reasonable man and which is not justified by any public policy to be considered of greater importance. * * *

* * * * *

(b) If a requested record is one of another Government agency or deals with subject matter as to which a Government agency other than the AEC has exclusive or primary responsibility, the request for such a record shall be promptly referred by the AEC to that Government agency for disposition or for guidance with respect to disposition.

11. Section 9.7 is revised to read as follows:

**§ 9.7 Inspection of records.**

(a) The AEC Public Document Room at 1717 H Street NW., Washington, D.C., is the location where the following records are available for public inspection:

(1) All final opinions (including concurring and dissenting opinions) and all orders in the adjudication of cases;

(2) Statements of policy and interpretations which have been adopted by the AEC and are not published in the FEDERAL REGISTER;

(3) A record of the final vote of each member in every Commission proceeding;

(4) A current index of the foregoing records, as well as the records specified in paragraph (b) of this section, issued, adopted or promulgated after July 4, 1967.

(b) The AEC Public Document Room and any one of the major operating field offices of the AEC identified in § 1.6(b) of this chapter are the locations where the following records are available for public inspection:

(1) Atomic Energy Commission rules and regulations;

(2) Atomic Energy Commission Manual and instructions to AEC personnel that affect any member of the public.

(c) The AEC Public Document Room will be open between 8:30 a.m. and 5:15 p.m. on Mondays through Fridays. The major operating field offices of the AEC will be open during regular office hours on Mondays through Fridays.

12. Section 9.8 is revised to read as follows:

**§ 9.8 Copies of records.**

(a) Copies of records may be requested at the AEC Public Document Room or at any one of the major operating field offices of the AEC identified in § 1.6(b) of this chapter. If the records are not available at or through these locations, or if it is not convenient to request the records at these locations, the request may be addressed in writing to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(b) All requests for copies of records must describe the record sought in sufficient detail to permit the identification and location of the requested records.

(c) If the record for which a written request to the Secretary is made has been adequately described pursuant to paragraph (b) of this section and can be disclosed pursuant to this part, the Secretary will inform the person making the request: (1) Where the record will be made available, (2) when it is anticipated that the record will be available, and (3) the estimated cost, if any, of conducting the search for the record and furnishing copies. If the record for which a written request to the Secretary is made has not been adequately described pursuant to paragraph (b) of this section, the Secretary shall so inform the requester. If the record for which a written request to the Secretary is made is exempt from disclosure pursuant to this part, the requester shall be so informed pursuant to § 9.10(c).

(d) Requested records which have been adequately described pursuant to paragraph (b) of this section and can be disclosed pursuant to this part but which are located at places other than the AEC Public Document Room or a major operating field office of the AEC may, at the discretion of the AEC, be made available for inspection and copying at such other locations. For example, AEC contracting officers may authorize an AEC contractor to disclose records in its possession at the contractor's facility, or, if the record is in the possession of a subcontractor, at a subcontractor's facility. To the extent applicable, the charges specified in § 9.9 for locating and reproducing copies of records shall be applied to records made available pursuant to this paragraph.

13. Subparagraph (2) of § 9.9(f) is amended to read as follows:

§ 9.9 **Charges for locating and reproducing copies of records.**

* * * * *

(f) * * *

(2) A record search for a requested record or for furnishing copies of records if the General Manager, the Director of Regulation, or their authorized representatives determine it to be appropriate in the interest of the AEC program.

14. Subparagraph (1) of § 9.10(b) is amended to read as follows:

§ 9.10 **Production or disclosure of exempt records.**

* * * * *

(b) * * *

(1) If an exempt record is sought from a major operating field office, the request or the subpoena shall promptly be forwarded to the Manager of the field office involved, who in turn, after consultation with his Chief Counsel, shall forward copies of the request or subpoena to the General Manager and to the General Counsel with an appropriate recommendation for disposition.

* * * * *

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 18th day of September 1968.

For the Atomic Energy Commission.

W. B. McCool,
*Secretary.*

[F.R. Doc. 68-11741; Filed, Sept. 26, 1968; 8:48 a.m.]

# Title 14—AERONAUTICS AND SPACE

## Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 8527, Amdts. 27-4, 29-5]

## PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

## PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

### Dual Locking Devices

The purpose of these amendments is to require two separate locking devices for certain removable fasteners on rotorcraft.

These amendments are based on a notice of proposed rule making (32 F.R. 15676, Nov. 14, 1967) circulated as Notice No. 67-49 dated November 7, 1967.

Numerous comments were received in response to Notice 67-49 and changes have been made to the proposal based upon these comments. The comments received and the changes in the proposal resulting therefrom are discussed below.

One of the comments indicated that since the proposal listed only externally threaded fasteners, it could imply that an internally threaded fastener such as a "nut" need not have a locking device. There was no intent to exclude any removable fastener under the proposal and the final rule has been revised to specifically include nuts.

Another comment recommended that rather than use the term "safe operation," the test under the regulation should be whether a landing can be made without damage to the helicopter but to accept damage to the landing gear components that are designed to yield during hard landings. The FAA, however, does not agree that the sole test for dual locking devices should be whether the helicopter can be safely landed following the loss of a removable fastener. To the contrary, safety dictates that the requirement for dual locking devices must take into consideration the need for continued safe operation of the helicopter following the loss of a fastener in order to afford the pilot an opportunity to locate a suitable landing area. For this reason, the regulation has not been changed as recommended. On the other hand, it should be pointed out that any design feature, structural or otherwise, approved in the type design may be taken into account in showing compliance with the regulation. Thus, a landing resulting in damage to landing gears that are designed to yield during a hard landing would not, by itself, be considered as an unsafe operation.

In addition to the foregoing, the FAA does not agree with the suggestion that the regulation should be limited to fasteners in the control system of rotorcrafts. The FAA considers that any fastener, the loss of which could preclude the continued safe flight and landing of rotorcraft, should be covered by this regulation. Moreover, contrary to a recommendation by one of the commentators, the FAA has retained the requirement that the fastener and its locking device may not be adversely affected by the environmental conditions associated with the particular installation. Service experience has shown that the locking capability of certain types of fasteners can be adversely affected by environmental conditions associated with rotorcraft.

One comment recommended that at least one of the prescribed locking means should require shearing or rupture prior to failure of the fasteners. Another comment recommended that one of the locking devices should be a friction type. The FAA does not agree with these comments insofar as fasteners other than bolts subject to rotation in flight are concerned. For such fasteners, the FAA does not consider it necessary that the locking devices be of a different type as long as they are separate devices. Thus, it would be satisfactory to have either two separate friction type locking devices or two separate non-friction locking devices on any such fastener.

With respect to bolts that are subject to rotation in flight, however, the FAA agrees that one of the locking devices must be of a non-friction type. While the notice proposed to remove the prohibition against the use of self-locking nuts on bolts subject to rotation in flight, this was based on the assumption that under the new requirement for two separate locking devices, such a prohibition would be unnecessary. However, after reconsideration, the FAA is aware that the new requirement could be met by the installation of two friction type (self-locking) locking devices and this would not provide the necessary level of safety. Therefore, while the absolute prohibition against the use of self-locking nuts on bolts subject to rotation in flight has been removed as proposed, the proposal has been modified to prohibit the use of two self-locking nuts on bolts subject to rotation in flight.

Interested persons have been afforded an opportunity to participate in the making of these amendments. All relevant material submitted has been fully considered.

In consideration of the foregoing, Parts 27 and 29 of the Federal Aviation Regulations (14 CFR Parts 27 and 29) are amended effective October 27, 1968, as follows:

1. Section 27.607 is amended to read as follows:

§ 27.607 **Fasteners.**

(a) Each removable bolt, screw, nut, pin, or other fastener whose loss could jeopardize the safe operation of the rotorcraft must incorporate two separate locking devices. The fastener and its locking devices may not be adversely affected by the environmental conditions associated with the particular installation.

(b) No self-locking nut may be used on any bolt subject to rotation in operation unless a nonfriction locking device is used in addition to the self-locking device.

2. Section 29.607 is amended to read as follows:

§ 29.607 **Fasteners.**

(a) Each removable bolt, screw, nut, pin, or other fastener whose loss could jeopardize the safe operation of the rotorcraft must incorporate two separate locking devices. The fastener and its locking devices may not be adversely affected by the environmental conditions associated with the particular installation.

(b) No self-locking nut may be used on any bolt subject to rotation in operation unless a nonfriction locking device is used in addition to the self-locking device.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958; 40 U.S.C. 1354, 1421, 1423)

Issued in Washington, D.C., on September 20, 1968.

D. D. Thomas,
*Acting Administrator.*

[F.R. Doc. 68-11721; Filed, Sept. 26, 1968; 8:46 a.m.]

[Airworthiness Docket No. 68-WE-29-AD, Amdt. 39-658]

## PART 39—AIRWORTHINESS DIRECTIVES

### North American Rockwell Models NA-265, NA-265-20, NA-265-30, NA-265-40, and NA-265-60

There have been cracks of the horizontal stabilizer support fitting that result in degradation of the strength of the horizontal stabilizer to fuselage mounting below an acceptable level. To correct this condition an airworthiness directive is being issued to require inspection and shimming if necessary of the horizontal stabilizer support fittings and replacement of any parts found cracked.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the horizontal stabilizer support fittings, P/N's 265-313459 (LH) and 265-313463-11 (RH), for evidence of cracking in the area adjacent to attach bolt holes on NA-265, NA-265-20, NA-265-30, NA-265-40, and NA-265-60 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective 30 days from the date of publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

NORTH AMERICAN ROCKWELL. Applies to Models NA-265 (Serial Nos. 265-1 through 265-88 and 276-1 through 276-55), NA-265-20 (Serial Nos. 270-1 through 270-6), NA-265-30 (Serial Nos. 277-1 through 277-10 and 285-1 through 285-32), NA-265-40 (Serial Nos. 282-1 through 282-95 and 287-1), and NA-265-60 (Serial Nos. 306-1 through 306-17) airplanes.

Compliance required as indicated within the next 100 hours time in service after the effective date of this AD, unless already accomplished.

Small cracks have been discovered in the area near the attachment bolt holes of the horizontal stabilizer support fitting. To prevent failure of the horizontal stabilizer support fittings, accomplish the following:

(a) Inspect the horizontal stabilizer support fittings P/N 265-313459 and 265-313463-11 for evidence of cracking in accordance with information contained in North American Rockwell Sabreliner Field Service Bulletin No. 68-4, dated January 25, 1968, or later FAA approved revision.

(b) Cracked horizontal stabilizer support fittings must be removed before further flight, marked conspicuously to avoid inadvertent return to service, and replaced with new or serviceable fittings.

(c) Check clearance between horizontal stabilizer support fittings P/N 265-313459 or 265-313463-11 and the canted bulkhead at fuselage station 457 and shim as necessary in accordance with information contained in North American Rockwell Sabreliner Field Service Bulletin No. 68-4, dated January 25, 1968, or later FAA approved revision.

This amendment becomes effective October 28, 1968.

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

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to North American Rockwell Corp., Los Angeles Division, International Airport, Los Angeles, Calif. 90009. These documents may also be examined at FAA Western Region, 5651 West Manchester Avenue, Los Angeles, Calif. 90045, and FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20553. A historical file on this airworthiness directive which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at FAA Western Region.

Issued in Los Angeles, Calif., on September 17, 1968.

ARVIN O. BASNIGHT,
*Director,*
*FAA Western Region.*

The incorporation by reference provisions in this document were approved by the Director of the Federal Register on September 26, 1968.

[F.R. Doc. 68-11722; Filed, Sept. 26, 1968; 8:46 a.m.]

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[Docket No. 68-EA-87, Amdt. 39-660]

## PART 39—AIRWORTHINESS DIRECTIVES

### Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an Airworthiness Directive which will require inspection and replacement where necessary of the elevator torque tube on certain Piper PA-31 type airplanes.

There has been a report of a cracked elevator torque tube in an aircraft with a total time in service of 322 hours. An engineering evaluation indicated the possibility of fatigue damage. Since this condition is likely to exist or develop in airplanes of the same type design, an Airworthiness Directive is being issued to require an immediate visual inspection and another within the next 25 hours time in service.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure herein are impractical and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive.

PIPER: Applies to Piper PA-31 and PA-31-300 type aircraft Serial Nos., 31-2 to 31-74 inclusive; 31-76 to 31-131 inclusive; 31-133 to 31-144 inclusive; 31-146 to 31-184 inclusive; 31-186 to 31-247 inclusive; 31-249 to 31-299 inclusive.

To detect cracks in the elevator torque tube P/N 40070-02 in elevator torque tube assembly P/N 40070-00 accomplish the following on aircraft with 100 hours or more total time in service:

(a) Prior to next flight, unless already accomplished, remove the fuselage tail fairing and visually inspect the elevator torque tube P/N 40070-02 for any deformation or cracking.

(b) Within the next 25 hours time in service after the effetcive date of this Airworthiness Directive, unless already accomplished within the last 75 hours time in service remove the torque tube assembly P/N 40070-00 from the aircraft. Remove the horn assembly and two (2) brackets and inspect the torque tube P/N 40070-02 for evidence of cracks using the dye penetrant method in conjunction with a glass of at least 10 power, or magnetic particle Inspection or X-ray or an FAA approved equivalent inspection. Inspections must be repeated within 100 hours time in service from the last inspection.

(c) If no cracks are found at the inspection at 500 hours time in service, visually inspect thereafter at intervals not to exceed 100 hours time in service from the last inspection for any deformation or cracking.

(d) Prior to further flight, replace any cracked or deformed torque tube with a new part, which if P/N 40070-02 then such new part must be inspected in accordance with paragraphs (b) and (c). Any other part number would not be covered by this Airworthiness Directive.

This amendment is effective September 27, 1968, and was effective upon receipt for all recipients of the telegram dated July 31, 1968, which contained this amendment. This Airworthiness Directive supersedes the referenced telegram.

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

Issued in Jamaica, N.Y., on September 20, 1968.

WAYNE HENDERSHOT,
*Acting Director, Eastern Region.*

[F.R. Doc. 68-11727; Filed, Sept. 26, 1968; 8:46 a.m.]

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[Airspace Docket No. 68-SW-66]

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

### Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter controlled airspace in the Enid, Okla., terminal area.

The Vance VOR will be decommissioned on September 19, 1968; therefore, it is necessary to amend the Enid, Okla., control zone by revoking the controlled airspace which was based on the Vance VOR.

Since this amendment lessens the burden on the public, notice and public procedures hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0501 G.m.t., September 19, 1968, as hereinafter set forth.

In § 71.171 (33 F.R. 2079, 7019), the Enid, Okla., control zone is amended by deleting "* * * and within 2 miles each side of the Vance VOR 134° radial, extending from the 5-mile radius zone northwest to the VOR; * * *."

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

Issued in Fort Worth, Tex., on September 18, 1968.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[F.R. Doc. 68-11723; Filed, Sept. 26, 1968; 8:46 a.m.]

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[Airspace Docket No. 68-AL-18]

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

### Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Soldotna, Alaska.

Due to removal of the Alaska Airlines radio beacon, the private instrument approach procedure to Soldotna Airport was canceled. With cancellation of this procedure there is no reason to retain the 1,200-foot floor transition area, nor all of the present 700-foot floor transition area.

The following transition areas are presently designated in the Soldotna terminal area.

"That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Soldotna Airport (latitude 60°28'25" N., longitude 151°02'20" W.) and within 2 miles each side of the Cordova Airlines Soldotna private radio beacon (latitude 60°28'45" N., longitude 151°02'00" W.) 261° bearing extending from the 5-mile radius area to 8 miles west of the radio beacon; within 2 miles each side of the 087° bearing from the Cordova Airlines private radio beacon (latitude 60°28'45" N., longitude 151°02'00" W.) extending from the radio beacon to 8 miles east and that airspace extending upward from 1,200 feet above the surface within 8 miles south and 5 miles north of the Cordova Airlines private radio beacon 261° bearing extending from the radio beacon to 12 miles west, excluding the Anchorage, Alaska, and Kenai, Alaska, 1,200-foot transition areas."

A portion of the 700-foot floor transition area is retained and redescribed to provide protected airspace for aircraft executing the Soldotna public instrument and missed approach procedure utilizing the Kenai VOR.

Since this action reduces the burden upon the public, notice and public procedure hereon are unnecessary and the amendment may be made effective without regard to the 30-day statutory period required by the Administrative Procedure Act.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t. November 14, 1968, as hereinafter set forth.

Section 71.181 (32 F.R. 2148) is amended as follows:

SOLDOTNA, ALASKA

That airspace extending upward from 700 feet within a 5-mile radius of the Soldotna Airport (latitude 60°28'25" N., longitude 151°02'20" W.); within 2 miles each side of the Kenai VOR 151° radial extending from the 5-mile radius area to the VOR excluding the portion within the Kenai control zone.

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

Issued in Anchorage, Alaska, on September, 16, 1968.

LYLE K. BROWN,
*Director, Alaskan Region.*

[F.R. Doc. 68-11724; Filed, Sept. 26, 1968; 8:46 a.m.]

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[Airspace Docket No. 68-SO-46]

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

### Revocation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Douglas, Ga., transition area.

The Douglas transition area is described in § 71.181 (33 F.R. 2137).

The controlled airspace protection at the Douglas, Ga., Airport will no longer be required after October 16, 1968, as the AL-5356-VOR/DME-1 standard instrument approach procedure serving this airport will be canceled on that date, due to insufficient utilization to warrant retention. Accordingly, it is necessary to revoke the transition area which was established to provide the required controlled airspace protection for IFR aircraft executing this approach.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 17, 1968, as hereinafter set forth.

In § 71.181 (33 F.R. 2137), the Douglas, Ga., transition area is revoked.

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

Issued in East Point, Ga., on September 17, 1968.

JAMES G. ROGERS,
*Director, Southern Region.*

[F.R. Doc. 68-11725; Filed, Sept. 26, 1968; 8:46 a.m.]

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[Docket No. 9155, Amdt. 151-25]

## PART 151—FEDERAL AID TO AIRPORTS

### Determinations by Regional Directors as to Clear Zone Areas; Correction of References to FAA Forms

The purpose of these amendments to Part 151 of the Federal Aviation Regulations is to disclose for the guidance of the public the officials making the determinations required under § 151.11 concerning clear zone areas, and to correct the references to FAA forms made in § 151.67(a) (1) and (6).

Section 151.11 provides the requirements for runway clear zones that all sponsors of projects involving grants-in-aid under the Federal-Aid Airport Program must meet. Under that section the Administrator has authority to apply and approve deviations from standard configurations and length and to determine the adequacy of property interests in runway clear zone areas. This amendment to § 151.11 shows that the Regional Directors will now have the same authority with respect to runway clear zones located in their regions.

The amendments to § 151.67(a) (1) and (6) are made to conform references therein to FAA forms to the designations of forms now used.

Since these amendments are procedural in nature, I find that notice and public procedure thereon are not required, and that they may be made effective on less than 30 days' notice.

In consideration of the foregoing, Part 151 of the Federal Aviation Regulations is amended as follows, effective September 27, 1968.

1. A new paragraph (g) is added at the end of § 151.11 to read as follows:

**§ 151.11 Runway clear zones: requirements.**

* * * * *

(g) The authority exercised by the Administrator under paragraphs (b), (c), (d), and (e) of this section to allow a deviation from, or the extent of conformity to, standard configuration or length of runway clear zones, or to determine the adequacy of property interests therein, is also exercised by Regional Directors.

**§ 151.67 [Amended]**

2. The words "Form FAA-1623" are stricken out in § 151.67(a)(1) and the words "FAA Form 5100-3" are inserted in place thereof.

3. The words "Form FAA-1625.1" are stricken out in § 151.67(a)(6), and the words "FAA Form 5100-6" are inserted in place thereof.

(Federal Airport Act, as amended; 49 U.S.C. 1101-1120)

Issued in Washington, D.C., on September 19, 1968.

D. D. THOMAS,
*Acting Administrator.*

[F.R. Doc. 68-11726; Filed, Sept. 26, 1968; 8:46 a.m.]

# Title 19—CUSTOMS DUTIES

## Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 68-238]

## PART 16—LIQUIDATION OF DUTIES

### Countervailing Duties; Sugar Content of Certain Articles From Australia

Net amount of bounty declared for the month of August 1968 for products of Australia subject to the countervailing duty order published in T.D. 54582. Section 16.24(f), Customs Regulations, amended.

The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed by the Australian Government within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303), on the exportation during the month of August 1968, of approved fruit products and other approved products containing sugar amounts to Australian $121.80 per 2,240 pounds of sugar content.

The net amount of bounties or grants on the above-described commodities which are manufactured or produced in Australia is hereby ascertained, determined, and declared to be Australian $121.80 per 2,240 pounds of sugar content. Additional duties on the above-described commodities, except those commodities covered by T.D. 55716 (27 F.R. 9595), whether imported directly or indirectly from that country, equal to the net amount of the bounty shown above shall be assessed and collected.

The table in § 16.24(f) of the Customs Regulations is amended by inserting after the last line under "Australia—Sugar content of certain articles" the number of this Treasury decision in the column headed "Treasury Decision" and the words "New rate" in the column headed "Action." The table in § 16.24(f) is further amended by deleting therefrom under "Australia—Sugar content of certain articles" the number 68–166 in the column headed "Treasury Decision" and the words "New rate" appearing opposite such number in the column headed "Action."

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

[SEAL] LESTER D. JOHNSON,
*Commissioner of Customs.*

Approved: September 19, 1968.

JOSEPH M. BOWMAN,
*Assistant Secretary of the Treasury.*

[F.R. Doc. 68–11777; Filed, Sept. 26, 1968; 8:51 a.m.]

# Title 16—COMMERCIAL PRACTICES

## Chapter I—Federal Trade Commission

[Docket No. C–1403]

## PART 13—PROHIBITED TRADE PRACTICES

### Allied Liquidators, Inc. and Allied Liquidators et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–175 Liquidation; § 13.70 *Fictitious or misleading guarantees;* § 13.155 *Prices:* 13.155–40 Exaggerated as regular and customary. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1490 *Nature;* Misrepresenting oneself and goods—Goods: § 13.1747 *Special or limited offers;* Misrepresenting oneself and goods—Prices: § 13.1805 *Exaggerated as regular and customary.* Subpart—Using misleading name—Vendor: § 13.2425 *Nature, in general.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Allied Liquidators, Inc., doing business as Allied Liquidators et al., Westchester, Ill., Docket C–1403, Aug. 12, 1968]

*In the Matter of Allied Liquidators, Inc., a Corporation, Doing Business as Allied Liquidators, and as Chicago-Midwest Freight & Forwarding Distributors, and Edward D. Walston, Also Known as Daniel Edward Wigodsky, Individually and as Officer of Said Corporation*

Consent order requiring a Westchester, Ill., merchandiser of miscellaneous products to cease misrepresenting the nature of its business, making deceptive pricing, savings and guarantee claims, and misrepresenting that the time for purchasing its goods is limited.

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

*It is ordered,* That respondents Allied Liquidators, Inc., a corporation, trading as Allied Liquidators, Chicago-Midwest Freight & Forwarding Distributors, or under any other trade name or names, and its officer Edward D. Walston, also known as Daniel Edward Wigodsky, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of power tools, radios, watches, or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Liquidators," "Freight," "Forwarding," or any other word or words of similar import or meaning in or as part of respondents' corporate or trade name or names; or representing, directly or by implication, that they are liquidators, authorized adjustors or agents engaged in the sale or disposition of bankrupt, estate, salvage, distrained, distress, or transportation company surplus merchandise; or are engaged in liquidating, adjusting, paying off, or otherwise settling indebtedness or claims; or misrepresenting, in any manner, their trade or business status or the source, character or nature of the merchandise being offered for sale: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereinunder, in respect to use of the trade name "Allied Liquidators," for respondents to show that the transaction involved: (a) A purchaser for resale or other than an ultimate consumer, or (b) Reconditioned salvage items for which the respondents are providing a market on an occasional basis and in limited quantities.

2. Representing, directly or by implication, that merchandise is guaranteed, unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

3. Using the terms "List Price," "Regular List Price," "Original List Price," or any other words or terms of similar import or meaning, to refer to any price amount which is appreciably in excess of the prices regularly charged by principal outlets in respondents' trade area.

4. Using the term "Retail Value" or any other words or terms of similar import or meaning, to refer to any price amount which appreciably exceeds the highest price at which substantial sales of such merchandise have been made in the respondents' trade area; or otherwise misrepresenting the price at which such merchandise has been sold in said trade area.

5. Representing, directly or by implication, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated selling price and any other price used for comparison with that price:

(a) Unless respondents have offered such merchandise for sale at the compared price in good faith for a reasonably substantial period of time in the recent, regular course of their business; or.

(b) Unless substantial sales of said merchandise are being made in the trade area where such representations are made at the compared price or at a higher price; or

(c) Unless a substantial number of the principal retail outlets in such trade area regularly offered the merchandise for sale at the compared price or some higher price; or

(d) When a value comparison representation with comparable merchandise is used, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the compared price, or a higher price, and it is clearly and conspicuously disclosed that the comparison is with merchandise of like grade and quality.

6. Representing, directly or by implication, that the supply of merchandise or the time during which it is available for sale is limited: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereinunder, in respect to any article of merchandise so advertised, for respondents to establish that their supply of said item was not sufficient to meet reasonably anticipated demands therefor, and that their supply could not be replenished through their customary sources.

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in

writing setting forth in detail the manner and form in which they have complied with this order.

Issued: August 12, 1968.

By the Commission.

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

[F.R. Doc. 68-11707; Filed, Sept. 26, 1968; 8:45 a.m.]

[Docket No. C-1406]

## PART 13—PROHIBITED TRADE PRACTICES

### Eugene Usow Manufacturing Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30-75 Textile Fiber Products Identification Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-90 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act; 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act; 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717, secs. 2-5, 54 Stat. 1128-1130, 15 U.S.C. 45, 70, 68) [Cease and desist order, Eugene Usow Manufacturing Co. et al., Chicago, Ill., Docket C-1406, Aug. 14, 1968]

*In the Matter of Eugene Usow Manufacturing Co., a Corporation, and Allen Usow, Jeanette Usow, and David Goldberg, Individually and as Officers of Said Corporation*

Consent order requiring a Chicago, Ill., manufacturer of hunting and insulated apparel to cease misbranding, falsely advertising, and failing to maintain required records on its textile fiber products and misbranding its wool products.

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

*It is ordered,* That respondents Eugene Usow Manufacturing Co., a corporation, and its officers, and Allen Usow, Jeanette Usow and David Goldberg, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

2. Failing to set forth all parts of the required information conspicuously and separately on the same side of the label in such a manner as to be clearly legible and readily accessible to the prospective purchaser.

3. Setting forth nonrequired information or representations on the label or elsewhere on the product in such a manner as to minimize, detract from, or conflict with information required by said Act and the rules and regulations promulgated thereunder.

4. Failing to set forth on labels the fiber contents of textile fiber products containing more than one section of different fiber composition, in a separated manner, so as to show the fiber composition of each section where such form of marking was necessary to avoid deception.

B. Falsely or deceptively advertising fiber products by making any representation, by disclosure or by implication, as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product unless the same information required to be shown on the stamp, tag, label or other means of identification under section 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

C. Failing to maintain and preserve records of fiber content of textile fiber products manufactured by them, as required by section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the rules and regulations thereunder.

*It is further ordered,* That respondents Eugene Usow Manufacturing Co., a corporation, and its officers, and Allen Usow, Jeanette Usow, and David Goldberg, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Failing to securely affix to or place on each product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a) of the Wool Products Labeling Act of 1939.

2. Failing to set forth consecutively and separately on the outer surface of the label, in immediate conjunction with each other, all items or parts of the required information to be shown and displayed in the stamp, tag, label, or other mark of identification.

*It is further ordered,* That the respondent corporation forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: August 14, 1968.

By the Commission.

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

[F.R. Doc. 68-11709; Filed, Sept. 26, 1968; 8:45 a.m.]

[Docket No. C-1401]

## PART 13—PROHIBITED TRADE PRACTICES

### Hilb Manufacturing Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30-30 Fur Products Labeling Act; 13.30-75 Textile Fiber Products Identification Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-10 Fur Products Labeling Act; 13.73-90 Textile Fiber Products Identification Act. Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-30 Fur Products Labeling Act; 13.1185-80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act; 13.1212-80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845-30 Fur Products Labeling Act; 13.1845-70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-35 Fur Products Labeling Act; 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 70, 69f) [Cease and desist order, Hilb Manufacturing Co. et al., Denver, Colo., Docket C-1401, Aug. 12, 1968]

*In the Matter of Hilb Manufacturing Co., a Corporation, and Edward Levy and Thomas J. Hilb, Individually and as Officers of Said Corporation*

Consent order requiring a Denver, Colo., manufacturer of sportswear and jackets to cease misbranding and falsely advertising its textile fiber and fur products and deceptively invoicing its fur products.

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

*It is ordered*, That respondents Hilb Manufacturing Co., a corporation, and its officers, and Edward Levy and Thomas J. Hilb, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible, and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

3. Using a fiber trademark in conjunction with the required information on labels affixed to said textile fiber products without the generic name of the fiber appearing on said labels in immediate conjunction therewith and in type or lettering of equal size and conspicuousness.

4. Failing to set forth on labels the respective percentages of the face and back of pile fabrics so as to show the ratio between the face and back of such fabrics, where an election is made pursuant to Rule 24 to show the fiber content of pile fabrics or products composed thereof in segregated form.

5. Failing to separately set forth the required information as to fiber content on the required label in such a manner as to separately show the fiber content of the separate sections of textile fiber products containing two or more sections where such form of marking is necessary to avoid deception.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, by disclosure or by implication, as to the fiber contents of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label or other means of identification under sections 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Using a fiber trademark in advertisements without a full disclosure of the required content information in at least one instance in the said advertisement.

3. Using any names, words, depictions, descriptive matter or other symbols, which connote or signify a fur-bearing animal, unless such products or parts thereof in connection with which the names, words, depictions, descriptive matter or other symbols are used, are furs or fur products within the meaning of the Fur Products Labeling Act: *Provided, however*, That where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word "fiber," "hair," or "blend," may be used.

*It is further ordered*, That respondents Hilb Manufacturing Co., a corporation, and its officers, and Edward Levy and Thomas J. Hilb, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur products; or in connection with the sale, advertising, offering for sale, transportation, or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Representing directly or by implication on labels that the fur contained in any fur product is natural when the fur contained therein is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix label to fur products showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

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

4. Setting forth information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting on labels affixed to fur products.

5. Failing to set forth separately on labels attached to such fur products composed of two or more sections containing different animal fur the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to the fur comprising each section.

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

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

2. Fails to set forth the term "Dyed Mouton Lamb" in the manner required when an election is made to use that term instead of the term "Dyed Lamb".

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

C. Falsely or deceptively invoicing fur products by:

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

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

*It is further ordered*, That respondents Hilb Manufacturing Co., a corporation, and its officers, and Edward Levy and Thomas J. Hilb, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of jackets or other products, do forthwith cease and desist from:

1. Representing in any manner, or by any means, that the filling material contained in any such products is composed entirely of down, unless said filling material in fact consists entirely of down.

2. Misrepresenting in any manner, or by any means, directly or by implication, the kind or type of filling material contained in any such products.

3. Describing said jackets or other products as containing "Hand Stitched

Quilting" or "Hand Stitched Tube Quilting," or using words of similar import in describing such jackets or other products, unless same are in fact hand stitched.

*It is further ordered* that the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: August 12, 1968.

By the Commission.

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

[F.R. Doc. 68-11710; Filed, Sept. 26, 1968; 8:45 a.m.]

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[Docket No. 8435 o.]

## PART 13—PROHIBITED TRADE PRACTICES

### L. G. Balfour Co. et al.

Subpart—Acquiring corporate stock or assets: 13.5–20 Federal Trade Commission Act. Subpart—Coercing and intimidating: § 13.345 *Competitors.* Subpart—Disparaging competitors and their products—Competitors: § 13.950 *Reliability, history and financial condition.* Subpart—Enticing away competitors' employees: § 13.1050 *Enticing away competitors' employees.* Subpart—Interfering with competitors or their goods—Competitors: § 13.1085 *Harrassing.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Final order to cease and desist, L. G. Balfour Co. et al., Attleboro, Mass., Docket 8435, July 29, 1968]

*In the Matter of L. G. Balfour Co., a Corporation, Lloyd G. Balfour, Individually and as an Officer of Said Corporation, and Burr, Patterson & Auld Co., a Corporation*

Order requiring the Nation's largest manufacturer of college fraternity jewelry to divest itself of a subsidiary corporation, to stop harassing competitors and enticing away their employees, to terminate contracts with high schools and college fraternities in excess of 1 year, to stop contributing to organizations of fraternities, and not to acquire any competitor for a period of 10 years without the permission of the Federal Trade Commission.

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

DEFINITIONS

For the purposes of the order to be issued in this proceeding, the following definitions shall apply:

(a) Fraternity shall mean a college social or college professional fraternity or sorority or college honor or college recognition society having more than one chapter; (b) Fraternity products shall mean products bearing the trademark or distinctive insignia of a fraternity (as defined in (a) above); including, but not limited to, such products as standard badges, jeweled badges, pledge buttons or pins, recognition pins, monogram pins, pendants, miscellaneous jewelry items, paddles, beer mugs, processed knitwear, blazers, party and dance favors, stationery, pennants, and other novelty-like items;

(c) Findings shall mean any product used in the manufacture, fabrication or processing of insignia jewelry, service awards, or specialty products including, but not limited to, tie bars, tie tacks, tie chains, cuff links, lapel pins or buttons, key chains, identification bracelets, belt buckles, pendants, compacts, vanities, cigarette lighters, billfolds, jewel or cigarette boxes, and pens and pencils.

I. *It is ordered,* That respondent L. G. Balfour Co., a corporation, and its officers, agents, representatives, employees, subsidiaries, successors, and assigns and respondent Burr, Patterson & Auld Co., a corporation, and its officers, agents, representatives, employees, subsidiaries, successors, and assigns, in connection with the sale, offering for sale, or distribution of fraternity products in commerce, as "commerce" is defined in the Federal Trade Commission Act, shall terminate all contracts, agreements, understandings, or arrangements, written or oral, in effect with any fraternity relating in any manner to the manufacture, sale, or distribution of fraternity products. Respondents shall send a written notice of termination to each said fraternity, together with a copy of this opinion and order; and a copy of such notice and order, together with a list of the fraternities to which said notice and order has been sent, shall be furnished to the Federal Trade Commission within 30 days thereafter.

II. *It is further ordered,* That respondent L. G. Balfour Co., a corporation, and its officers, agents, representatives, employees, subsidiaries, successors, and assigns and respondent Burr, Patterson & Auld Co., a corporation, and its officers, agents, representatives, employees, subsidiaries, successors, and assigns, in connection with the sale, offering for sale, or distribution of fraternity products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Monopolizing, or attempting to monopolize, the manufacture, sale, or distribution of fraternity products by utilizing any plan, policy, method, system, program, or device which has the purpose or effect of foreclosing competitors from the manufacture, sale, or distribution of such products, or utilizing any contract, agreement, understanding or arrangement, written or oral, which has the purpose or effect of unlawfully foreclosing, restricting, restraining, or eliminating competition in the manufacture, sale, or distribtuion of such products;

(2) Entering into, maintaining, or utilizing any contract, agreement, understanding, or arrangement, written or oral, with any fraternity which designates, appoints, authorizes, grants, or entitles respondents, or either of them, to be sole or exclusive supplier, or suppliers, of any or all types of fraternity products to said fraternity, or which requires or obligates said fraternity to purchase all or substantially all of its requirements of any or all types of fraternity products from respondents, or either of them;

(3) For a period of five (5) years, entering into, maintaining or utilizing any contract, agreement, understanding, or arrangement, written or oral, with any fraternity which continues in effect for a period longer than 1 year;

(4) Representing, directly or by implication, that respondents, or either of them, are the sole authorized supplier or suppliers of any or all types of fraternity products to any fraternity;

(5) Holding any office in, making any financial or other contribution of value to, or participating in any manner in the management of the affairs of any organization composed of more than one fraternity, such as, but not limited to, the Interfraternity Research and Advisory Council, National Interfraternity Conference, National Panhellenic Conference, National Panhellenic Council, Professional Interfraternity Council, Professional Panhellenic Association, or Association of College Honor Societies.

III. *It is further ordered,* That respondent L. G. Balfour Co., a corporation, and its officers, agents, representatives, employees, subsidiaries, successors, and assigns and respondent Burr, Patterson & Auld Co., a corporation, and its officers, agents, representatives, employees, subsidiaries, successors, and assigns, in connection with the manufacture, sale, offering for sale, or distribution of fraternity products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing in any manner, directly or indirectly, that any competitor has manufactured, distributed or sold any or all types of fraternity products without permission or authorization of any fraternity or fraternities;

(2) Inducing or coercing any fraternity or any officer, member, or employee thereof, (a) to refrain from giving fair consideration to offers by respondents' competitors to sell any or all types of fraternity products to any fraternity or any member thereof, or (b) to deny respondents' competitors free and open access to the national offices or chapter houses of any fraternity, or (c) to cancel any existing contract or purchase order of respondents' competitors covering the sale of any or all types of fraternity products to any fraternity or to any member thereof;

(3) During a period of ten (10) years from the date of entry of this order, purchasing, merging, or consolidating with, or in any way acquiring any interest in, any competitor engaged in the manufacture, distribution, or sale of any or all types of fraternity products whose sales of said fraternity products constitute an amount in excess of ten (10) percent of

the total sales of such competitor, unless permission to make such merger, consolidation, or acquisition is first obtained from the Federal Trade Commission;

(4) Entering into any contract, agreement, understanding, or arrangement, written or oral, with any manufacturer or distributor of any fraternity product, or any product intended for sale or distribution to any fraternity, that such supplier shall not sell said product, or products, to any competitor of respondents.

IV. *It is further ordered,* That respondent L. G. Balfour Co., within one (1) year from the date this order becomes final, shall divest itself, absolutely and in good faith, of all assets, properties, rights, and privileges, tangible and intangible, of respondent Burr, Patterson & Auld Co. relating in any way to the manufacture, sale, or distribution of fraternity products, including patents, trademarks, trade names, firm names, good will, contracts, and customer lists. In such divestment no property above mentioned to be divested shall be sold or transferred, directly or indirectly, to anyone who at the time of the divestiture is a stockholder, officer, director, employee, or agent of, or otherwise directly or indirectly connected with, or under the control or influence of, respondent L. G. Balfour Co., or to any purchaser who is not approved by the Federal Trade Commission.

Commencing upon the date this order becomes final and continuing for a period of five (5) years from and after the effective date of the divestiture, respondent L. G. Balfour Co. shall refrain from selling any fraternity products to any fraternity that was under an official, coofficial, or sole official jeweler contract with respondent Burr, Patterson & Auld as of June 16, 1961.

V. *It is further ordered,* That respondent L. G. Balfour Co., a corporation, and its officers, agents, representatives, employees, subsidiaries, successors, and assigns and respondent Burr, Patterson & Auld Co., a corporation, and its officers, agents, representatives, employees, subsidiaries, successors, and assigns, in connection with the manufacture, sale, offering for sale, or distribution of any of their products in commerce, as "commerce" is defined in the Federal Trade Commission Act, shall cease and desist from:

(1) Falsely imputing to any competitor dishonorable conduct, inability to perform contracts, questionable credit standing, or falsely disparaging any competitor's products, business methods, selling prices, values, credit terms, policies, or services;

(2) Enticing away employees or sales representatives from any competitor with the intent or effect of injuring any competitor or competitors. This provision shall not prohibit any person from seeking more favorable employment with respondents, or either of them, or to prohibit said respondents, or either of them, from hiring or offering employment to employees of a competitor in good faith and not for the purpose of inflicting injury on such competitor;

(3) Entering into any contract, agreement, understanding, or arrangement, written or oral, with any supplier of any finding or findings that such supplier shall not sell said finding or findings to any competitor of respondents.

VI. *It is further ordered,* That respondent L. G. Balfour Co., a corporation, its officers, agents, employees, representatives, subsidiaries, successors, and assigns, directly or indirectly, through any corporate or other device, in or in connection with the offering for sale, sale or distribution of high school class rings in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Entering into, establishing, maintaining, enforcing, or continuing in operation or effect beyond the first school year that ends after the effective date of this order, any contract, agreement, or understanding with any high school official or high school class with respect to the sale, supply, or distribution of high school class rings which fails to set forth all of the terms essential to enable performance of such contract, agreement, or understanding, including a description of the ring being ordered and the price thereof;

(2) Entering into, establishing, maintaining, enforcing, or continuing in operation or effect beyond the first school year that ends after the effective date of this order, any contract, agreement, or understanding with any high school official or high school class with respect to the sale, supply, or distribution of high school class rings which continues in effect for a period longer than 1 year: *Provided, however,* That respondent L. G. Balfour Co., a corporation, and its officers, agents, representatives, employees, subsidiaries, successors, and assigns, may enter into such contract, agreement or understanding for a period not in excess of 3 years if (i) the manufacture of the high school class rings that are the subject of any contract, agreement, or understanding requires respondent to construct a complete and original set of dies usable solely for said rings, (ii) the die charges are separately quoted and stated by respondent, and (iii) the contract, agreement, or understanding provides that the dies become the property of the high school at the expiration thereof;

(3) Representing, directly or by implication, that special prices, discount prices, term prices, discounts, or rebates are afforded to purchasers of high school class rings unless the price at which such merchandise is offered constitutes a reduction equal to any amount stated, or otherwise directly or by implication represented, from the actual, bona fide price at which such merchandise was offered to high schools on a regular basis during the calendar year in which such representation is made in the regular course of business in the trade area where the representation is made, and unless such regular price and the discount price, discount rate, or rebate terms are clearly set forth in such agreement;

(4) Entering into, establishing, maintaining, or enforcing at any time after the first school year that ends after the effective date of this order, any contract, agreement, or understanding with any high school official or high school class with respect to the sale, supply, or distribution of high school class rings more than 60 days prior to the date upon which the term of such contract, agreement, or understanding is to begin;

(5) Entering into, establishing, maintaining or enforcing at any time after the first school year that ends after the effective date of this order, any contract, agreement, or understanding with any person whereby respondent will alternate, rotate, or otherwise share with any competitor in the sale or supply of high school class rings to any high school class.

VII. *It is further ordered,* That respondent L. G. Balfour Co. and respondent Burr, Patterson & Auld shall, within sixty (60) days from the date of service of this order, submit to the Federal Trade Commission a report, in writing, setting forth in detail the manner and form in which they have complied with Parts I, II, III, and V of this order; respondent L. G. Balfour Co. shall also, within sixty (60) days from the date of such service, submit to the Federal Trade Commission a report, in writing, setting forth in detail the manner and form in which it has complied with Part VI of this order; and respondent L. G. Balfour Co. shall also, within sixty (60) days from such date of service and every sixty (60) days thereafter until it has fully complied with this order, submit to the Commission a detailed written report of its actions, plans, and progress in complying with the provisions of Part IV of this order.

VIII. *It is further ordered,* That all charges respecting respondent L. G. Balfour be, and they hereby are, dismissed.

Issued: July 29, 1968.

By the Commission.

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

[F.R. Doc. 68-11734; Filed Sept. 26, 1968; 8:47 a.m.]

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[Docket No. C-1402]

## PART 13—PROHIBITED TRADE PRACTICES

### Modern Couture, Inc., and Leonard Morse

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended, 72 Stat. 1717; 15 U.S.C. 45, 1191, 70) [Cease and desist order, Modern Couture, Inc., et al., New York, N.Y., Docket No. C-1402, Aug. 12, 1968]

*In the Matter of Modern Couture, Inc., a Corporation, and Leonard Morse, Individually and as an Officer of Said Corporation*

Consent order requiring a New York City manufacturer of ladies' dresses to cease marketing dangerously flammable products and failing to keep required records of its textile fiber products.

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

*It is ordered,* That respondents Modern Couture Inc., a corporation, and its officers, and Leonard Morse, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting, or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, products; or manufacturing for sale, selling, or offering for sale any product made of a fabric or related material which has been shipped or received in commerce, as the terms "product," "fabric," "related material," and "commerce" are defined in the Flammable Fabrics Act, as amended, which products, fabric or related material have failed to conform to an applicable standard or regulation continued in effect, issued or amended under the Flammable Fabrics Act, as amended.

*It is further ordered,* That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission an interim special report in writing setting forth the respondents' intentions as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product which gave rise to the complaint, (1) the amount of such products in inventory, (2) any action taken to notify customers of the flammability of such products and the results thereof and (3) any disposition of such products since April 26, 1967. Such report shall further inform the Commission whether respondents have in inventory any fabric, product or related material having a plain surface made of silk, rayon, or cotton or combinations thereof in a weight of 2 ounces or less per square yard or fabric with a raised fiber surface made of cotton or rayon or combinations thereof. Respondents will submit samples of any such fabric, product, or related material with this report. Samples of the fabric, product, or related material shall be of no less than 1 square yard of material.

*It is further ordered,* That respondents Modern Couture, Inc., a corporation, and its officers, and Leonard Morse, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from failing to maintain and preserve proper records relating to textile fiber products manufactured by them, as required by section 6 of the Textile Fiber Products Identification Act and Rule 39 of the regulations promulgated thereunder.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: August 12, 1968.

By the Commission.

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

[F.R. Doc. 68-11711; Filed, Sept. 26, 1968; 8:45 a.m.]

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[Docket No. C-1407]

## PART 13—PROHIBITED TRADE PRACTICES

### National Advertisers Agency, Inc., et al.

Subpart—Claiming or using indorsements or testimonials falsely or misleadingly: § 13.330 *Claiming or using indorsements or testimonials falsely or misleadingly:* 13.330-9 Better Business Bureau. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1490 *Nature.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1625 *Free goods or services;* § 13.1647 *Guarantees;* § 13.1747 *Special or limited offers;* Misrepresenting oneself and goods—Prices: § 13.1805 *Exaggerated as regular and customary.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, National Advertisers Agency, Inc., et al., Hutchinson, Kans., Docket C-1407, Aug. 19, 1968]

*In the Matter of National Advertisers Agency, Inc., a Corporation, and Raymond E. Gray and Virginia Gray, Individually and as Officers of Said Corporation*

Consent order requiring a Hutchinson, Kans., seller of photograph albums and photograph enlargements to cease making deceptive pricing, savings and guarantee claims, misrepresenting any article is free, any customer is especially selected, that it is in the advertising business and approved by the Better Business Bureau.

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

*It is ordered,* That respondents National Advertisers Agency, Inc., a corporation, and its officers, and Raymond E. Gray and Virginia Gray, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of photograph album plans, albums, enlargements, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that:

1. Any article of merchandise is being given free or as a gift, or without cost or charge, in connection with the purchase of other merchandise when the price charged includes a price for the so-called free article of merchandise or when the articles of merchandise are usually and regularly sold together for the price charged;

2. Persons solicited have been especially selected;

3. The respondents' regular or usual price for 8 x 10 or 5 x 7 black and white photographic enlargements is $3.75 or that respondents' regular or usual price for any article of merchandise is any amount which is in excess of the price at which such merchandise has been sold or offered for sale in good faith by the respondents for a reasonably substantial period of time in the recent, regular course of their business; or misrepresenting in any manner, the price at which such merchandise has been sold or offered for sale by the respondents;

4. The trade area selling price of respondents' photograph album is $47.50 or the trade area selling price of said album or any article of merchandise is any amount in excess of the price at which substantial sales of said album or other article are being made in the area; or misrepresenting, in any manner, the trade area selling price of any article of merchandise;

5. All photographic work is performed by respondents; or misrepresenting, in any manner, the extent of the processing or other services done by respondents in the processing of photographs;

6. Respondents are recommended or approved by Dun and Bradstreet, the Wichita, Kans., Better Business Bureau, or the Hutchinson, Kans., Chamber of

Commerce, or any Better Business Bureau or Chamber of Commerce; or misrepresenting, in any manner, the recommendation or approval given respondents or their products;

7. Purchasers of respondents' photograph album plan are receiving a reduction from respondents' regular selling price in exchange for assisting respondents in their advertising program; or misrepresenting, in any manner, the nature, purpose or reason for any offer of sale or sale of merchandise;

8. Sample photograph enlargements shown to prospective purchasers were made for purchasers of respondents' plan or that any samples were made for any persons or derived from any source: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that said samples were in fact made for the persons stated or derived from the represented sources.

9. Prices charged camera club members are lower than those charged noncamera club members, or are lower than the prices of respondents' competitors: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the said prices are in fact lower for club members or lower than competitors' prices as represented;

10. Respondents have contracted with or secured the assurance of any other persons, company, or companies which have assumed full responsibility to discharge respondents' obligations to their customers on coupons issued by respondents to the customers at time of purchase or under any contract or agreement between respondents and its customers;

11. Respondents' products or services are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed;

12. Respondents' agents, representatives, or employees are bonded for the protection of the purchaser;

B. Falsely representing, in any manner, that savings are available to purchasers or prospective purchasers of respondents' products or services; or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' products or services.

C. Using the words "Advertisers Agency" or any other word or words of similar import or meaning as part of respondents' trade name or corporate name; or representing, directly or by implication, that respondents are engaged in the advertising business; or misrepresenting, in any manner, the nature or status of respondents' business.

D. Representing, directly or by implication, that letters, forms, or other communications originated by respondents are sent by an attorney at law; or misrepresenting, in any manner, the source or the originator of any letters, forms, or other communications.

E. Representing, directly or by implication, that legal action is about to be taken or has been taken to enforce payment of delinquent accounts: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that steps had been in fact taken to institute such action at the time of the notice to the delinquent debtor.

F. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: August 19, 1968.

By the Commission.

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

[F.R. Doc. 68-11712; Filed, Sept. 26, 1968; 8:45 a.m.]

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[Docket No. C-1404]

## PART 13—PROHIBITED TRADE PRACTICES

### Pualani's Hawaiian Hut et al.

Subpart—Importing, selling or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Pualani's Hawaiian Hut et al., Fort Lauderdale, Fla., Docket C-1404, Aug. 13, 1968]

*In the Matter of Pualani's Hawaiian Hut, a Partnership, and Randolph Avon and Pualani Avon, Individually and as Copartners Trading as Pualani's Hawaiian Hut*

Consent order requiring a Fort Lauderdale, Fla., gift shop to cease marketing dangerously flammable products.

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

*It is ordered,* That respondents Pualani's Hawaiian Hut, a partnership, and Randolph Avon and Pualani Avon, individually and as copartners trading as Pualani's Hawaiian Hut, or under any other name, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting, or causing to be transported in commerce, or selling or delivery after sale or shipment in commerce, any product as "commerce" and "product" are defined in the Flammable Fabrics Act as amended, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

*It is further ordered,* That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission an interim special report in writing setting forth the respondents' intention as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product which gave rise to the complaint, (1) the amount of such product in inventory, (2) any action taken to notify customers of the flammability of such product and the results thereof and (3) any disposition of such product since February 21, 1968. Such report shall further inform the Commission whether respondents have in inventory any wood fiber chips from which the aforementioned products are made or any other fabric, product, or related material having a plain surface and made of silk, rayon, or cotton or combinations thereof in a weight of 2 ounces or less per square yard or fabric with a raised fiber surface made of cotton, or rayon or combinations thereof. Respondents will submit samples of any fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than 1 square yard of material.

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

Issued: August 13, 1968.

By the Commission.

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

[F.R. Doc. 68-11713; Filed, Sept. 26, 1968; 8:45 a.m.]

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[Docket No. C-1408]

## PART 13—PROHIBITED TRADE PRACTICES

### Steiner & Stein Fur Co. et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Steiner & Stein Fur Co. et al., New York, N.Y., Docket C-1408, Aug. 19, 1968]

*In the Matter of Steiner & Stein Fur Co., a Partnership, and Leo Steiner and Paul Stein, Individually and as Copartners Trading as Steiner & Stein Fur Co.*

Consent order requiring a New York City manufacturing furrier to cease misbranding and falsely invoicing its fur products.

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

*It is ordered,* That respondents Steiner & Stein Fur Co., a partnership, trading under its own name, or any other name, and Leo Steiner and Paul Stein, individually and as copartners trading as Steiner & Stein Fur Co., and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Representing, directly or by implication, on labels that the fur contained in any fur product is natural when the fur contained therein is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix labels to fur products showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Representing, directly or by implication, on invoices that the fur contained in the fur products is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: August 19, 1968.

By the Commission.

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

[F.R. Doc. 68-11714; Filed, Sept. 26, 1968; 8:45 a.m.]

[Docket No. C-1405]

## PART 13—PROHIBITED TRADE PRACTICES

### Emily Wetherby

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Emily Wetherby trading as Emily Wetherby, New York, N.Y., Docket C-1405, Aug. 13, 1968]

Consent order requiring a New York City importer of wearing apparel to cease marketing dangerously flammable products.

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

*It is ordered,* That the respondent Emily Wetherby, an individual trading as Emily Wetherby, or under any other name, and respondent's representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting, or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product as "commerce" and "product" are defined in the Flammable Fabrics Act, as amended, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

*It is further ordered,* That the respondent herein shall, within ten (10) days after service upon her of this order, file with the Commission an interim special report in writing setting forth the respondent's intention as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product which gave rise to the complaint, (1) the amount of such product in inventory, (2) any action taken to notify customers of the flammability of such product and the results thereof and (3) any disposition of such product since November 22, 1967. Such report shall further inform the Commission whether respondent has in inventory any fabric, product or related material having a plain surface and made of silk, rayon or cotton or combinations thereof in a weight of 2 ounces or less per square yard or fabric with a raised fiber surface made of cotton or rayon or combinations thereof. Respondent will submit samples of any such fabric, product, or related material with this report. Samples of the fabric, product, or related material shall be of no less than 1 square yard of material.

*It is further ordered,* THAT the respondent herein shall, within sixty (60) days after service upon her of this order, file with the Commission a report in writing setting forth in detail the manner and form in which she has complied with this order.

Issued: August 13, 1968.

By the Commission.

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

[F.R. Doc. 68-11708; Filed, Sept. 26, 1968; 8:45 a.m.]

[Docket No. 8746]

## PART 13—PROHIBITED TRADE PRACTICES

### World Sewing Center, Inc., and All States Sewing Center et al.

Subpart: Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1370 *Business methods, policies, and practice.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modified order to cease and desist, World Sewing Center, Inc., d.b.a. All States Sewing Center et al., Dorchester, Mass., Docket 8746, Aug. 13, 1968]

*In the Matter of World Sewing Center, Inc., a Corporation, d.b.a. All States Sewing Center and Ernest Rose, Individually and as an Officer of Said Corporation*

Order reopening and modifying a cease and desist order dated June 7, 1968, 33 F.R. 9543, charging a sewing machine distributor with certain deceptive sales practices by eliminating penalty provisions against present and future salesmen of the respondent.

The modified order to cease and desist, is as follows:

*It is therefore ordered,* That this proceeding be, and it hereby is, reopened.

*It is further ordered,* That paragraph 14 of said order be, and it hereby is, altered to read as follows:

Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of the respondents' products or services and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

Issued: August 13, 1968.

By direction of the Commission.

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

[F.R. Doc. 68-11715; Filed, Sept. 26, 1968; 8:45 a.m.]

# Title 33—NAVIGATION AND NAVIGABLE WATERS

## Chapter I—Coast Guard, Department of Transportation

[CGFR 68-107]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Notice of Temporary Drawbridge Closure, Hillsborough River, Fla.

1. The City of Tampa, Fla., by letter dated August 8, 1968, requested the Jacksonville District, Corps of Engineers to

permit the closure to navigation of the Platt Street bridge across the Hillsborough River from 7:30 p.m. to 10 p.m. on Monday, October 7, 1968, to permit a Fire Prevention Parade to use Platt Street. The purpose of this notice is to temporarily amend the requirements in 33 CFR 117.465(a)(1) and to prescribe temporary special regulations in 33 CFR 117.465(a)(1)(i) for the operation of Platt Street bridge across the Hillsborough River at Tampa, Fla., from 7:30 p.m. to 10 p.m. on October 7, 1968, only.

2. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and 49 CFR 1.4(a)(3), the text of 33 CFR 117.465(a)(1)(i) shall read as follows and shall be effective on October 7, 1968, from 7:30 p.m. to 10 p.m. only.

**§ 117.465 Hillsborough River, Tampa, Fla.**

(a) *City of Tampa highway bridges at Platt and Krause Streets and State Road Department of Florida highway bridge at Lafayette Street.* (1) Except as otherwise provided in subparagraph (2) of this paragraph, the owners of or agencies controlling these bridges shall not be required to open the draws for the passage of vessels between 8:30 a.m. and 9:30 a.m. and between 5 p.m. and 6:15 p.m. on all days except Sundays.

(i) The owners of or agencies controlling the Platt Street bridge may keep the drawspans closed to navigation from 7:30 p.m. to 10 p.m. on October 7, 1968, except that the draws shall be opened promptly upon signal from a public vessel of the United States, the City of Tampa fireboat or from a vessel in distress.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g), 80 Stat. 941; 33 U.S.C. 499, 49 U.S.C. 1655(g); 49 CFR 1.4(a)(3)(v); 32 F.R. 5606)

Dated: September 18, 1968.

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

[F.R. Doc. 68-11720; Filed, Sept. 26, 1968; 8:46 a.m.]

# Title 21—FOOD AND DRUGS

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

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

### PART 121—FOOD ADDITIVES

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

PAPER AND PAPERBOARD

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 8B2253) filed by Minnesota Mining & Manufacturing Co., Inc., 2501 Hudson Road, St. Paul, Minn. 55119, and other relevant material, concludes that the food additive regulations should be amended to provide for the use of an additional optional substance, as specified below, in the manufacture of paper and paperboard used in contact with aqueous and fatty foods. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526(a)(5) is amended by alphabetically inserting in the list of substances a new item, as follows:

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

* * * * *

(a) * * *

(5) * * *

| *List of substances* | *Limitations* |
|---|---|
| * * * | * * * |
| Ammonium bis(*N*-ethyl-2-perfluoroalkylsulfonamido ethyl) phosphates, containing not more than 15% ammonium mono (*N*-ethyl-2-perfluoroalkylsulfonamido ethyl) phosphates, where the alkyl group is more than 95% $C_8$ and the salts have a fluorine content of 50.2% to 52.8% as determined on a solids basis. | For use only as an oil and water repellent at a level not to exceed 0.17 pound (0.09 pound of fluorine) per 1,000 square feet of treated paper or paperboard, as determined by analysis for total fluorine in the treated paper or paperboard without correction for any fluorine that might be present in the untreated paper or paperboard, when such paper or paperboard is used in contact with nonalcoholic foods under the conditions of use described in paragraph (c) of this section, table 2, condition of use D, E, F, and G. |
| * * * | * * * |

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: September 16, 1968.

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

[F.R. Doc. 68-11748; Filed, Sept. 26, 1968; 8:48 a.m.]

# Title 39—POSTAL SERVICE

## Chapter I—Post Office Department

### PART 125—MATTER MAILABLE UNDER RULES

### Delivery of Firearms

In the daily issue of Thursday, June 13, 1968 (33 F.R. 8678), the Post Office Department published a notice of proposed rule making consisting of the addition of a new § 125.9 to provide that the postmaster at the office of address shall not make delivery of any firearm without first notifying the chief law enforcement official for the community in which the addressee resides that delivery of a firearm to the addressee will be made in the ordinary course of the mails.

In that same daily issue of Thrusday, June 13, 1968 (33 F.R. 8667-8668) the Department issued temporary regulations containing the same terms as the proposed rule for a period of 90 days.

After careful consideration of all comments received, the Department has determined to adopt the proposal as set out in the published notice with the exception that the permanent regulations are expanded for clarity and contain a definition of firearms, instructions for marking such parcels, and a list of exceptions to the regulations.

As a hiatus between the temporary regulations presently in force and the permanent regulations now being adopted would be contrary to the public interest, new § 125.9 is adopted upon publication in the FEDERAL REGISTER:

**§ 125.9 Notice of delivery of rifles, shotguns, and other mailable firearms.**

(a) *Definition of "firearms".* A firearm is a device from which a projectile may be fired or otherwise expelled by the action of an explosion, spring or other mechanism, or air or gas pressure, with sufficient force to enable the device to be used as a weapon.

(b) *Marking of parcels.* Any parcel which contains one or more firearms and which is tendered for deposit in the mails must display on its exterior the word "FIREARMS" in at least one-inch-high, bold, block letters. Any such parcel not so displaying such word shall not be accepted for carriage in the mails.

(c) *Recording and disclosure of deliveries.* The postmaster of the office of address of any such parcel shall make in triplicate a record on Form 3761, Notice of Delivery of Firearms, of the name and address of the addressee of such parcel.

One copy of this record shall be supplied daily to the chief law enforcement official for the community specified in the parcel address. The third copy of such record shall be furnished to the Postal Inspection Service when and as required by such Service. Postmasters are also authorized to disclose these records of firearms deliveries to any Federal or State law enforcement agency upon request therefor.

(d) *Exceptions.* The provisions of this section shall not apply to the following instances:

(1) Parcels addressed to the Federal Bureau of Investigation or its Director, or to the scientific laboratory or crime detection bureau of any agency whose members are officers of a State, territory, or district authorized to serve warrants of arrest or commitment.

(2) Parcels mailed by a Federal Government agency directed to any qualified addressee as listed in paragraphs (a) (1) through (a) (7) of § 125.5.

(3) Parcels addressed to any manufacturer of firearms or bona fide dealers therein, or from one to the other.

NOTE: The corresponding Postal Manual section is 125.9.

(5 U.S.C. 301; 18 U.S.C. 1715; 39 U.S.C. 501)

TIMOTHY J. MAY,
*General Counsel.*

SEPTEMBER 26, 1968.

[F.R. Doc. 68-11846; Filed, Sept. 26, 1968; 9:20 a.m.]

# Title 17—COMMODITY AND SECURITIES EXCHANGES

## Chapter II—Securities and Exchange Commission

[Release Nos. 33-4923, 34-8409]

## PART 231—INTERPRETATIVE RELEASES RELATING TO SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

## PART 241—INTERPRETATIVE RELEASES RELATING TO SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

### Industrial Revenue Bonds; Clarification of Effective Date

The staff of the Commission has received a number of inquiries with respect to the effective date of Rule 131 (17 CFR 230.131) under the Securities Act of 1933 and Rule 3b-5 (17 CFR 240.3b-5) under the Securities Exchange Act of 1934 relating to industrial revenue bonds. These rules provide in substance that where such bonds are payable from the proceeds of a lease, sale or loan arrangement by a commercial enterprise, a separate security is created which is subject to the requirements of said Acts.

These rules provide that they will apply to transactions with respect to such securities sold after December 31, 1968. The term "sold" was inserted in paragraph (c) of each rule in order to make clear that the rule will not apply if the securities are acquired and paid for by the underwriters on or before December 31, 1968. The provision was not intended to mean that the rule would be applicable unless the securities are sold to the public before such date.

By the Commission, September 16, 1968.

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F.R. Doc. 68-11735; Filed, Sept. 26, 1968; 8:47 a.m.]

# Title 46—SHIPPING

## Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER J—MISCELLANEOUS

[General Order 92—Appendix]

## PART 375—EXCHANGE OF WAR-BUILT VESSELS

### Statement of Policy

The following statement of policy is hereby added as an appendix at the end of this part:

APPENDIX

STATEMENT OF POLICY

The Ship Exchange Act, section 510(1) of the Merchant Marine Act, 1936, as amended, Public Law 86-575, 74 Stat. 312, 46 U.S.C. 1160(1), provides for the values of vessels traded-in and traded-out under that Act to be the "fair and reasonable" values of such vessels as determined by the Secretary of Commerce after considering (1) the scrap value both in American and foreign markets, (2) the depreciated value, and (3) the market value for operation in the world trade or in the foreign or domestic trade of the United States.

The Ship Exchange Act further provides that in determining the "fair and reasonable value" of vessels to be exchanged there shall also be considered the cost of placing the vessel in class with respect to hull and machinery, and, with respect to any traded-out vessels of the military type, the cost of reconverting and restoring such vessels for normal operation in commercial service.

The Secretary of Commerce has delegated his authority under the Ship Exchange Act to the Maritime Administrator. (Section 3 of Department Order 117-A, 31 F.R. 8087; Section 3, Subsection a, of Department Order 117-B, 33 F.R. 158)

The provisions of the Ship Exchange Act prescribing the requirements for valuing vessels were amended by Public Law 89-254, 79 Stat. 980, and, as a result of that amendment, the Maritime Administrator is now required to value all vessels traded-in and traded-out under the Ship Exchange Act "on the basis yielding the highest fair return to the Government commensurate with the purposes" of the Ship Exchange Act.

It has been the policy of the Maritime Administration to determine the values of traded-in and traded-out vessels under the Ship Exchange Act by averaging the American and restricted world market values, except for tankers and military type vessels traded-out, in which case the values are based on American market values, "as is where is."

In view of the amendment of the valuation provisions of the Act referred to above, the policy of averaging American and restricted world market values can no longer be followed because it does not yield the "highest fair return to the Government commensurate with the purposes" of the Ship Exchange Act.

Values on the American market are now generally higher than values on the restricted world market.

Therefore, as required by the valuation provisions of the Act as amended, the Acting Maritime Administrator has determined, and approved as a matter of policy, that after considering (1) the scrap value both in American and foreign markets, (2) the depreciated value, (3) the market value for operation in the world trade or in the foreign or domestic trade of the United States, and (4) the cost of class and conversion work necessary on the vessels being valued:

1. The American market values of the traded-in and traded-out vessels will represent the "fair and reasonable values" of such vessels, in the absence of material unforeseen circumstances, and will be approved as such for all vessels traded-in and traded-out under the Ship Exchange Act.

2. Military type vessels and tankers being traded-out shall be valued on the basis of American market value, "as is, where is", assuming the ship's shell plating is structurally sound and its machinery well preserved, subject to adjustment for deficiencies in shell plating and machinery as determined by the Chief, Office of Ship Operations, but in no event shall the vessel's value be less than its domestic scrap value assuming it were sold with the privilege of scrapping in a friendly foreign country.

3. In each exchange of vessels, the value of the vessel traded-in unless based on scrap value, and the value of the vessel traded-out shall be calculated in the same manner.

Dated: September 19, 1968.

By order of the Acting Maritime Administrator.

JOHN M. O'CONNELL,
*Assistant Secretray.*

[F.R. Doc. 68-11854; Filed, Sept. 26, 1968; 10:38 a.m.]

## Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket No. 68-33; General Order 13; Amdt. 2]

## PART 531—PUBLICATION, POSTING, AND FILING OF FREIGHT AND PASSENGER RATES, FARES, AND CHARGES IN THE DOMESTIC OFFSHORE TRADE

## PART 536—FILING OF TARIFFS BY COMMON CARRIERS BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES AND BY CONFERENCES OF SUCH CARRIERS

### Exemption; State of Alaska Ferry System

On June 29, 1968, the Federal Maritime Commission published in the FEDERAL REGISTER, 33 F.R. 9556-7, a proposed rule in its Docket No. 68-33 which would exempt certain activities of the Alaska State Ferry System from regulation by the Commission. Specifically, all of the

operations of the Ferry System between Prince Rupert, Canada, and ports in southeastern Alaska, and the noncommercial operations of the Ferry System between Seattle, Wash., on the one hand, and Prince Rupert, Canada, and ports in southeastern Alaska on the other hand, would be exempt from tariff filing and related regulation. Comments, replies to comments, and answers to replies have been submitted and have been considered by the Commission.

Only one of the parties commenting on the proposed rule objects to an exemption for the operations of the Ferry System. Sea-Land Service, Inc., although not serving Prince Rupert, Canada, or ports in southeastern Alaska and serving Seattle only in the Seattle/Anchorage, Kodiak trade, nevertheless contends that none of the commercial carriage of the Ferry System should be exempted from the Commission's regulation. Sea-Land points out that traffic to and from ports in southeastern Alaska can move via Seattle or from Prince Rupert, and contends that hard competition exists in the Alaska trade not only between carriers by water, but also between Federal Maritime Commission regulated carriers and motor carriers subject to the Interstate Commerce Commission which move cargo overland between Prince Rupert and southeastern Alaska. Sea-Land contends that the exemption of the State of Alaska from the tariff filing and other requirements with respect to the carriage of commercial property between Prince Rupert, Canada and points in southeastern Alaska would be unjustly discriminatory vis-a-vis the other common carriers in that trade.

Sea-Land's objection to the Prince Rupert, southeastern Alaska exemption does not appear to be well founded. Five carriers have tariffs on file with this agency for a Prince Rupert/southeastern Alaska service, yet not one of these carriers or any other carrier in that trade has registered an adverse comment to the proposed exemption. This is a surprising course in the light of the contention that severe competition exists between carriers operating through Seattle on the one hand, and Prince Rupert on the other hand, for traffic to and from ports in southeastern Alaska. Moreover, Alaska Steamship Company, the major water carrier in the southeastern Alaska/Seattle trade, states that it does not object to the proposed rule. In the light of such observations, it appears to the Commission the degree of competition with respect to the Prince Rupert, southeastern Alaska trade area does not justify the retention of tariff filing and associated regulatory controls over the commercial operations of the Ferry System in that area. The exemption from such requirements will not substantially impair effective regulation by the Federal Maritime Commission, or be detrimental to commerce. Nor does it appear to be unjustly discriminatory with respect to Sea-Land or any other carrier. As noted above, Sea-Land does not operate in the Prince Rupert, southeastern Alaska trade, and those carriers which do operate in the trade have not commented adversely on the proposed exemption.

Several of the parties commenting on the proposed rule suggest complete exemption of the Ferry System from regulation. There are, however, reasons which the Commission feels justify retention of jurisdiction over the commercial operations of the Ferry from and to the port of Seattle. Tariffs must be filed for these commercial services so that the information with respect to rates is freely available to shippers. Although it is true that the tolls are published by the Ferry System and that the Ferry System is subject to some extent to regulation by the State of Alaska, the Commission believes that a filing by the Ferry System here will provide needed protection for competitive commerical carriers and users of the Ferry. Furthermore, the authority of the State of Alaska with respect to the Ferry System is limited to the intrastate operations of the System.

One party expresses concern as to the rule's effect upon the right of commercial vehicles to move on Ferry vessels. It is neither the intention nor will it be the effect of the proposed rule to deny motor vehicles the privilege of utilizing the Ferry System's vessels.

The exemption of the noncommercial operations of the Ferry System from the tariff filing and related regulatory controls will not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discriminatory, or be detrimental to commerce. No commercial carrier now provides passenger and related services between southeastern Alaska and Seattle, and the limited amount of passenger service conducted between Seattle, Wash., and Prince Rupert, Canada, does not appear to justify tariff filing and related regulation. Moreover, as noted above, no party to this proceeding objects to the proposed exemptions of the passenger and related operations of the Ferry System to and from Seattle.

Therefore, pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 553; the Intercoastal Shipping Act, 1933, 46 U.S.C. 843; and sections 18 (a) and (b), 35, and 43 of the Shipping Act, 1916, 46 U.S.C. 817, 817(b), 833(a), and 841 (a); Parts 531 and 536 of Title 46 CFR are amended as follows:

(1) The section heading of § 531.26 is amended to read as set forth below.

(2) Section 531.26 is amended by the addition of a new paragraph (b), reading as follows:

**§ 531.26 Exemptions.**

* * * * *

(b) Carriage by vessels operated by the State of Alaska between Seattle, Washington, and ports in southeastern Alaska is exempt from the provisions of the Intercoastal Shipping Act, 1933, and section 18(a), Shipping Act, 1916, with respect to the transportation of passengers, commercial busses carrying passengers, personal vehicles and personal effects; provided that such vehicles and personal effects are the accompanying personal property of the passengers, and are not being transported for the purpose of sale.

(3) A new § 536.15 *Exemptions* is added to Part 536 reading as follows:

**§ 536.15 Exemptions.**

(a) Carriage by vessels operated by the State of Alaska between Prince Rupert, Canada, and ports in southeastern Alaska is exempt from the provisions of section 18(b), Shipping Act, 1916, to the extent that it meets all the following conditions: (1) The carriage of property is limited to vehicles; (2) the tolls for the vehicles so transported are levied solely on the basis of space utilized rather than weight or contents of the vehicle, and such tolls are the same regardless of whether the vehicle is loaded or empty; (3) the operator of the vessel does not move the vehicles on or off the ship; and (4) the carrier does not participate in any joint rates establishing through routes or in any other type of agreements with any other carrier.

(b) Carriage by vessels operated by the State of Alaska between Seattle, Wash., and Prince Rupert, Canada, is exempt from the provisions of section 18(b), Shipping Act, 1916, with respect to the transportation of passengers, commercial buses carrying passengers, personal vehicles and personal effects; provided that such vehicles and personal effects are the accompanying personal property of the passengers, and are not being transported for the purpose of sale.

*Effective date.* The exemptions granted herein shall become effective simultaneously with the filing of tariffs by the State of Alaska for those services which have not been exempted by the rules herein.

By the Commission.

[SEAL] THOMAS LISI,
*Secretary.*

[F.R. Doc. 68-11729; Filed, Sept. 26, 1968; 8:47 a.m.]

# Proposed Rule Making

## FEDERAL MARITIME COMMISSION

**[ 46 CFR Part 514 ]**

[Docket No. 67-57]

### SIGNIFICANT VESSEL OPERATING COMMON CARRIERS IN THE DOMESTIC OFFSHORE TRADE; REPORTS OF RATE BASE AND INCOME ACCOUNT

### Filing of Supplemental Briefs and Postponement of Oral Argument

Several parties have requested that evidentiary hearings be conducted with respect to the proposed rules in this proceeding. The requests do not specify the reasons for such hearings to any appreciable extent. Accordingly, supplemental briefs may be filed on or before October 21, 1968, setting forth in detail why evidentiary hearings should be held and identifying the section or sections of the rules on which evidence would be presented. Briefs are to be filed with the Secretary in an original and 15 copies.

In view of the foregoing, oral argument in this proceeding is postponed until further notice.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
*Assistant Secretary.*

[F.R. Doc. 68-11730; Filed, Sept. 26, 1968; 8:47 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[ 14 CFR Part 71 ]**

[Airspace Docket No. 68-SO-74]

### TRANSITION AREA

### Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Athens, Ga., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Atlanta Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

The Athens transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Athens Municipal Airport (lat. 33°56'54'' N., long. 83°19'37''W.).

The proposed transition area is required for the protection of IFR aircraft during climb from 700 feet above the surface and during descent below 1,000 feet above the surface. Since the last alteration of terminal airspace at Athens, turbojet aircraft have begun utilizing the airport. Criteria appropriate to this airport requires the establishment of a 9-mile radius circle transition area.

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

Issued in East Point, Ga., on September 18, 1968.

JAMES G. ROGERS,
*Director, Southern Region.*

[F.R. Doc. 68-11728; Filed, Sept. 26, 1968; 8:46 a.m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

**[ 21 CFR Part 138 ]**

### DRUGS

### Additional Official Names

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 508, 76 Stat. 1789; 21 U.S.C. 358) and the administrative procedure provisions of 5 U.S.C. 552 (80 Stat. 383, as amended 81 Stat. 54) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the Commissioner proposes that § 138.2 be amended by alphabetically inserting the following items as official names for drugs:

**§ 138.2 Drugs; official names.**

* * * * * * *

| Official name | Chemical name or description | Molecular formula |
|---|---|---|
| Benzoctamine | *N*-Methyl-9,10-ethanoanthracene-9(10*H*)-methylamine | $C_{18}H_{19}N$ |
| Chlorthalidone | 2-Chloro-5-(1-hydroxy-3-oxo-1-isoindolinyl)benzenesulfonamide | $C_{14}H_{11}ClN_2O_4S$ |
| Cirolemycin | An antibiotic substance derived from *Streptomyces bellus* var. *cirolerosis* var. *nova*. | |
| Clofibrate | Ethyl 2-(*p*-chlorophenoxy)-2-methylpropionate | $C_{12}H_{15}ClO_3$ |
| Clogestone | 6-Chloro-3β,17-dihydroxypregna-4,6-dien-20-one | $C_{21}H_{29}ClO_3$ |
| Crufomate | 4-*tert*-Butyl-2-chlorophenyl methyl methylphosphoramidate | $C_{12}H_{19}ClNO_3P$ |
| Deferoxamine | *N*-[5-[3-[(5-Aminopentyl)-hydroxycarbamoyl]propionamido]pen-tyl] -3-[[5-(*N*-hydroxyacetamido)pentyl]carbamoyl]propiono-hydroxamic acid. | $C_{25}H_{48}N_6O_8$ |
| Dextran 40 | A polysaccharide having a weight average molecular weight of 40,000; produced by the action of *Leuconostoc mesenteroides on sucrose*. | |
| Dextran 70 | A polysaccharide having a weight average molecular weight of 70,000; produced by the action of *Leuconostoc mesenteroides* on sucrose. | |
| Dimethindene | 2-[1-[2-[2-(Dimethylamino)ethyl]inden-3-yl]ethyl]pyridine | $C_{20}H_{24}N_2$ |
| Dimethisterone | 17β-Hydroxy-6α-methyl-17-(1-propynyl)androst-4-en-3-one | $C_{23}H_{32}O_2$ |
| Ethosuximide | 2-Ethyl-2-methylsuccinimide | $C_7H_{11}NO_2$ |
| Ethynodiol | 19-Nor-17α-pregn-4-en-20-yne-3β,17-diol | $C_{20}H_{28}O_2$ |
| Fluprednisolone | 6α-Fluro-11β,17α,21-trihydroxypregna-1,4-diene-3,20-dione; 6α-fluoro-prednisolone. | $C_{21}H_{27}FO_5$ |
| Flurothyl | Bis(2,2,2-trifluoroethyl)ether | $C_4H_4F_6O$ |
| Furazosin | 1-(4-Amino-6,7-dimethoxy-2-quinazolinyl)-4-(2-furoyl) piperazine | $C_{19}H_{21}N_5O_4$ |
| Furosemide | 4-Chloro-*N*-furfuryl-5-sulfamoylanthranilic acid | $C_{12}H_{11}ClN_2O_5S$ |
| Glycopyrrolate | 3-Hydroxy-1,1-dimethylpyrrolidinium bromide α-cyclopentyl-mandelate. | $C_{19}H_{28}BrNO_3$ |
| Guanadrel | (1,4-Dioxaspiro[4.5]dec-2-ylmethyl)guanidine | $C_{10}H_{19}N_3O_2$ |
| Halquinols | 5,7-Dichloro-8-quinolinol, 5-chloro-8-quinolinol, and 7-chloro-8-quinolinol in proportions resulting naturally from chlorination of 8-quinolinol. | $C_9H_5Cl_2NO$ and $C_9H_6ClNO$ |
| Iodamide | α,5-Diacetamido-2,4,6-triiodo-*m*-toluic acid | $C_{12}H_{11}I_3N_2O_4$ |
| Melphalan | L-3-[*p*-[Bis(2-chloroethyl)-amino]phenyl]alanine | $C_{13}H_{18}Cl_2N_2O_2$ |
| Methacycline | 4-(Dimethylamino)-1,4,4a,5,5a,6,11,12a-octahydro-3,5,10,12,12a-pentahydroxy-6-methylene-1,11-dioxo-2-naphthacene-carboxamide; 6-deoxy-6-demethyl-6-methylene 5-oxytetracycline. | $C_{22}H_{22}N_2O_8$ |
| Methixene | 1-Methyl-3-(thioxanthen-9-ylmethyl)piperidine | $C_{20}H_{23}NS$ |
| Methotrexate | *N*-[*p*-[[(2,4-Diamino-6-pteridinyl)methyl]methylamino]benzoyl]glutamic acid; 4-amino-10-methylfolic acid. | $C_{20}H_{22}N_8O_5$ |
| Methoxyflurane | 2,2-Dichloro-1,1-difluoroethyl methyl ether | $C_3H_4Cl_2F_2O$ |
| Metoserpate | Methyl 11,17α,18α-trimethoxy-3β,20α-yohimban-16β-carboxylate | $C_{24}H_{32}N_2O_6$ |
| Metronidazole | 2-Methyl-5-nitroimidazole-1-ethanol | $C_6H_9N_3O_3$ |
| Mianserin | 1,2,3,4,10,14b-Hexahydro-2-methyldibenzo[*c,f*]pyrazino[1,2-*a*] azepine. | $C_{18}H_{20}N_2$ |
| Mitotane | 1,1-Dichloro-2-(*o*-chlorophenyl)-2-(*p*-chlorophenyl)ethane | $C_{14}H_{10}Cl_4$ |

| Official name | Chemical name or description | Molecular formula |
|---|---|---|
| Nalidixic acid | 1-Ethyl-1,4-dihydro-7-methyl-4-oxo-1,8-naphthyridine-3-carboxylic acid. | $C_{12}H_{12}N_2O_3$ |
| Nandrolone | 17β-Hydroxyestr-4-en-3-one | $C_{18}H_{26}O_2$ |
| Niridazole | 1-(5-Nitro-2-thiazolyl)-2-imidazolidinone | $C_6H_6N_4O_3S$ |
| Nortriptyline | 10,11-Dihydro-*N*-methyl-5*H*-dibenzo[*a*,*d*]cycloheptene-$\Delta^5$,γ-propylamine. | $C_{19}H_{21}N$ |
| Opipramol | 4-[3-(5*H*-dibenz[*b*,*f*]azepin-5-yl)propyl]-1-piperazineethanol | $C_{23}H_{29}N_3O$ |
| Panthenol | 2,4-Dihydroxy-*N*-(3-hydroxypropyl)-3,3-dimethylbutyramide; pantothenyl alcohol. | $C_9H_{19}NO_4$ |
| Pargyline | *N*-Methyl-*N*-2-propynylbenzylamine | $C_{11}H_{13}N$ |
| Pentazocine | 1,2,3,4,5,6-Hexahydro-6,11-dimethyl-3-(3-methyl-2-butenyl)-2,6-methano-3-benzazocin-8-ol. | $C_{19}H_{27}NO$ |
| Pancuronium | 1,1′-(3β,17β-Dihydroxy-5α-androstan-2β,16β-ylene)bis[1-methylpiperidinium] diacetate. | $C_{35}H_{60}N_2O_4$ |
| Propranolol | 1-(Isopropylamino)-3-(1-naphthyloxy)-2-propanol | $C_{16}H_{21}NO_2$ |
| Thioridazine | 10-[2-(1-Methyl-2-piperidyl)ethyl]-2-(methylthio)phenothiazine | $C_{21}H_{26}N_2S_2$ |
| Tolazamide | 1-(Hexahydro-1*H*-azepin-1-yl)-3-(*p*-tolylsulfonyl)urea | $C_{14}H_{21}N_3O_3S$ |
| Tromethamine | 2-Amino-2-(hydroxymethyl)-1,3-propanediol | $C_4H_{11}NO_3$ |

Any interested person may, within 60 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: September 19, 1968.

HERBERT L. LEY, JR.,
*Commissioner of Food and Drugs.*

[F.R. Doc. 68-11698; Filed, Sept. 26, 1968; 8:45 a.m.]

# CIVIL AERONAUTICS BOARD

## [ 14 CFR Parts 207, 208, 212, 214, 249 ]

[Docket No. 20269; EDR-145]

## NAMES AND ADDRESSES OF PASSENGERS ON PRO RATA CHARTER FLIGHTS IN FOREIGN AIR TRANSPORTATION

### Notice of Proposed Rule Making

SEPTEMBER 23, 1968.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Parts 207, 208, 212, 214, and 249 which would require United States and foreign air carriers to maintain records of the names and addresses of all passengers on pro rata charter trips in foreign air transportation and retain such records for six months. The reasons for the proposal are explained in the explanatory statement, and the proposed amendments are set out in the proposed rule. This regulation is proposed under authority of sections 204(a), 401, 402, and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 754 (as amended by 76 Stat. 143), 757, and 766; 49 U.S.C. 1324, 1371, 1372, and 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before October 28, 1968, will be considered by the Board before taking final action on the proposed rules. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

*Explanatory statement.* The Board's regulations presently require U.S. scheduled and supplemental air carriers to maintain a record of the names and addresses of all passengers on each pro rata charter trip in interstate and overseas air transportation for 6 months.[1] In addition, charterers with respect to transatlantic supplemental carriers and foreign charter carriers must file with the carrier a passenger manifest, including the names and addresses of all passengers on a pro rata (or mixed) charter, and these lists must be retained for 1 and 2 years, respectively.[2] Foreign scheduled carriers must retain for 2 years copies of all manifests and other traffic documents for off-route charters and all traffic documents for on-route charters originating or terminating in the United States.[3] The objective of these various requirements is to facilitate supervision by the Board over the carriers' compliance with the Board's charter regulations.

In 1963, the Board sought to impose a uniform requirement for all carriers to retain the names and addresses of passengers on all charter flights for 1 year.[4] The amendment finally adopted, however, limited the retention of passenger names and addresses to 6 months for interstate and overseas pro rata charter flights.[5] The Board was persuaded that the information collected on arrival-departure cards, INS Form I-94, for all passengers arriving or departing on international flights would be sufficient for its investigative purposes. Effective August 21, 1967 (32 F.R. 11517), the Immigration and Naturalization Service waived the use of INS Form I-94 for U.S. citizens arriving or departing on international flights.

[1] Sections 207.9, 208.4, 249.8, and 249.13.
[2] Sections 295.35, 214.6, 214.35(a), and 249.8.
[3] Sections 212.7 and 249.12.
[4] EDR-59, dated Sept. 4, 1963.
[5] Regulations ER-404, ER-405, and ER-406, effective June 15, 1964.

As noted above, the present regulations do not require U.S. scheduled and supplemental carriers to maintain a record of the names and addresses of passengers on pro rata charters in foreign air transportation (except transatlantic supplemental charters). Moreover, the regulations covering foreign scheduled carriers do not require that manifests include addresses of passengers, and manifests do not ordinarily contain such information. Accordingly, to the above extent, and in the absence of INS Form I-94, the Board will not have this information generally available.

The proposed rule would amend Parts 207, 208, 212, and 249 to require that U.S. scheduled and supplemental carriers and foreign scheduled carriers maintain records of the names and addresses of passengers on all pro rata charter trips and retain the records for 6 months. Since such information is currently required of transatlantic supplemental carriers and foreign charter carriers, the proposed rule would not amend Part 295 or 214 in this regard. However, in order to make the retention period of such records uniform for all classes of carriers, Part 214 would be amended to reduce the retention period of passenger manifests from 2 years to 6 months, and the retention period for "passenger manifests" for supplemental carriers would be reduced to 6 months.

Minimal burden would be imposed on U.S. and foreign scheduled carriers by the proposed rule. With respect to charters originating in the United States, carriers can require charterers to supply the passenger lists. For charters originating abroad, the carriers can retain a triplicate copy of INS Form I-94 for foreign nationals.

*Proposed rule.* It is proposed to amend Parts 207, 208, 212, 214, and 249 of the Economic Regulations (14 CFR Parts 207, 208, 212, 214, and 249) as follows:

1. Amend § 207.9(a) to read:

**§ 207.9 Record retention.**

Each air carrier shall retain the following records in accordance with Part 249 of this subchapter.

(a) A record of the names and addresses of all passengers transported on each pro rata charter trip.

* * * * *

2. Amend § 208.4 to read:

**§ 208.4 Passenger names and addresses.**

Each supplemental air carrier shall maintain a record of the names and addresses of all passengers transported on each pro rata charter trip. Such record shall be retained in accordance with Part 249 except that it may be maintained at either the principal office or the principal operations base of the carrier.

3. Amend § 208.215 to read:

**§ 208.215 Passenger manifests.**

Prior to each one-way or round-trip flight, a manifest shall be filed by the charterer with the air carrier showing the names and addresses of all passengers to be transported on the flight.

4. Revise § 212.7 to read:

§ 212.7 **Record retention.**

(a) Each foreign air carrier shall maintain, in accordance with Part 249, the following documents pertaining to charter trips:

(1) True copies of all passenger manifests, air waybills, invoices, and other traffic documents covering off-route charter trips performed under a statement of authorization.

(2) A copy of every contract for on-route charter trips originating or terminating in the United States together with all traffic documents pertaining to such on-route charters.

(3) A record of the names and addresses of all passengers transported on each pro rata charter trip originating or terminating in the United States.

(b) Such documents shall be made available, at a place in the United States, for inspection upon request by an authorized representative of the Board or the Federal Aviation Administration.

5. Revise § 214.6(a) to read:

§ 214.6 **Record retention.**

(a) Every foreign air carrier operating pursuant to this part shall retain true copies of the following documents at its principal or general office and shall make them available in the United States upon request by an authorized representative of the Board or the Federal Aviation Administration for the following periods:

(1) Every charter contract: 2 years;

(2) All passenger manifests including those filed by charterers: 6 months; and

(3) Proof of commission paid to any travel agent by the carrier: 2 years.

* * * * *

6. Amend § 249.8 by amending Categories 12 and 13 to read as follows:

§ 249.8 **Period of preservation of records by supplemental air carriers.**

* * * * *

| *Category of records* | *Period to be retained* |
|---|---|
| * * * | * * * |
| 12. Names and addresses of all passengers transported on each pro rata charter trip. | 6 months. |
| 13. (a) Every charter contract. | 2 years. |
| (b) All passenger manifests, including those filed by charterers. | 6 months. |
| * * * | * * * |

7. Revise § 249.12(c) to read:

§ 249.12 **Period of preservation of records by foreign air carriers.**

* * * * *

(c) Each carrier shall, pursuant to Part 212 of this subchapter, maintain, for the periods specified, the following documents:

(1) True copies of all passenger manifests, air waybills, invoices, and other documents covering off-route charter trips performed under a statement of authorization: 2 years;

(2) A copy of every contract for on-route charter flights originating or terminating in the United States together with all traffic documents pertaining to such on-route charters: 2 years;

(3) A record of the names and addresses of all passengers transported on each pro rata charter trip originating or terminating in the United States: 6 months.

8. Amend § 249.13(f) by amending Category 302(c) of the Schedule of Records to read:

§ 249.13 **Period of preservation of records by certificated route air carriers.**

* * * * *

(f) * * *

SCHEDULE OF RECORDS

| Category of records | Period to be retained | Microfilm indicator |
|---|---|---|
| * * * | * * * | * * * |
| 302. Reservations reports and records: | | |
| * * * | * * * | * * * |
| (c) Names and addresses of all passengers transported on each pro rata charter trip. | 6 months.. | |

[F.R. Doc. 68-11753; Filed, Sept. 26, 1968; 8:49 a.m.]

# Notices

## DEPARTMENT OF THE TREASURY

### Bureau of Customs

### HIGH VOLTAGE PORCELAIN INSULATORS

### Antidumping Proceeding Notice

SEPTEMBER 23, 1968.

On June 21, 1968, information was received indicating a possibility that high voltage porcelain insulators manufactured by NGK Insulators, Ltd., Japan, are being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). This information is in proper form pursuant to §§ 53.26 and 53.27 of the Customs Regulations (19 CFR 53.26, 53.27).

The information was submitted by Howrey, Simon, Baker & Murchison, Washington, D.C., on behalf of the National Electrical Manufacturers Association.

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 53.29 of the Customs Regulations (19 CFR 53.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices for home consumption are higher than the prices of the merchandise sold for exportation to the United States.

This notice is published pursuant to § 53.30 of the Customs Regulations (19 CFR 53.30).

[SEAL] LESTER D. JOHNSON,
*Commissioner of Customs.*

[F.R. Doc. 68-11778; Filed, Sept. 26, 1968; 8:51 a.m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Serial M8905]

### MONTANA

### Notice of Classification of Public Lands for Multiple Use Management

*Correction*

In F.R. Doc. 68-10592 appearing at page 12387 in the issue of Wednesday, September 4, 1968, the third line under the center heading "Block D" should read: "Sec. 23, E½ E½;".

### Fish and Wildlife Service

[Docket No. G-413]

### EVERTON NICHOLAS LOCKAMY, JR.

### Notice of Loan Application

SEPTEMBER 23, 1968.

Everton Nicholas Lockamy, Jr., Sneads Ferry, N.C. 28460, has applied for a loan from the Fisheries Loan Fund to aid in financing the construction of a new 65-foot length overall wood vessel to engage in the fishery for shrimp and lobster.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised) 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 mking a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
*Acting Director,*
*Bureau of Commercial Fisheries.*

[F.R. Doc. 68-11689; Filed, Sept. 26, 1968; 8:45 a.m.]

### Office of the Secretary

[Secretary's Order No. 2508, Amdt. No. 76]

### COMMISSIONER OF INDIAN AFFAIRS

### Delegation of Authority Regarding Acceptance of Donations

Section 11 (paragraph (s) of Order 2508, Amdt. 6, 19 F.R. 34-35) is revised to read as follows:

(s) The acceptance of donations of funds or other property for the advancement of the Indian race, and use of the donated property in accordance with the terms of the donation in furtherance of any program authorized by other provisions of law for the benefit of Indians pursuant to the act of February 14, 1931, 46 Stat. 1106, 25 U.S.C. section 451 (1964), as amended by the act of June 8, 1968, 82 Stat. 171, P.L. 90-333.

STEWART L. UDALL,
*Secretary of the Interior.*

SEPTEMBER 20, 1968.

[F.R. Doc. 68-11716; Filed, Sept. 26, 1968; 8:46 a.m.]

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### ARKANSAS AND WYOMING

### Designation of Areas for Emergency Loans

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

ARKANSAS

Monroe:

WYOMING

Fremont:

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1969, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 23d day of September 1968.

ORVILLE L FREEMAN,
*Secretary.*

[F.R. Doc. 68-11744; Filed, Sept. 26, 1968; 8:48 a.m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### AMERICAN CYANAMID CO.

### Notice of Amended Filing of Petition Regarding Pesticides

Notice was given in the FEDERAL REGISTER of December 21, 1967 (32 F.R. 20669), that a petition (PP 8F0661) had been filed by the American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, N.J. 08540, proposing the establishment of tolerances for residues of the insecticide dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate) and its oxygen

analog in or on the raw agricultural commodities lemons and oranges at 2 parts per million.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)) and § 120.9 of the pesticide procedural regulations (21 CFR 120.9), notice is given that said petition has been amended by proposing additional tolerances for residues of dimethoate and its oxygen analog in meat, fat, and meat byproducts of cattle at 0.02 part per million (negligible residue) and in milk at 0.002 part per million (negligible residue).

Dated: September 19, 1968.

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

[F.R. Doc. 68-11749; Filed, Sept. 26, 1968; 8:48 a.m.]

## UBS CHEMICAL CO.

### Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), UBS Chemical Co., a division of the A. E. Staley Manufacturing Co., 491 Main Street, Cambridge, Mass. 02142, has withdrawn its petition (FAP 8B2294), notice of which was published in the FEDERAL REGISTER of May 29, 1968 (33 F.R. 7850), proposing that § 121.2599 *Vinylidene chloride copolymer coatings for nylon film* be amended to provide for the safe use of phenyl acid phosphate as an optional adjuvant substance employed in the production of vinylidene chloride copolymer food-contact coatings for nylon film.

Dated: September 18, 1968.

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

[F.R. Doc. 68-11750; Filed, Sept. 26, 1968; 8:49 a.m.]

## TOLBUTAMIDE

### Drugs for Human Use—Drug Efficacy Study Implementation

The Food and Drug Administration has reviewed and evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Orinase tablets (0.5 gram tolbutamide per tablet), marketed by the Upjohn Co., 301 Henrietta Street, Kalamazoo, Mich. 49001 (NDA 10-670).

The Food and Drug Administration concurs in the evaluation of the Academy that tolbutamide is effective for diabetis mellitus of the stable type without acute complications, such as acidosis or ketosis.

An approved new-drug application pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act is required for marketing this article.

The holder of the new-drug application for this drug is requested to submit, within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, a supplemental new-drug application to provide for labeling revisions. Those parts of the labeling indicated below should be substantially as follows:

#### ACTIONS

This is an oral antidiabetic agent which effectively restores blood sugar to normal ranges in selected diabetic patients.

The mode of action of tolbutamide is believed to be that of stimulation of synthesis and release of endogenous insulin.

There is now evidence that improvement in pancreatic beta cell function, with consequent improvement in glucose tolerance, may occur with prolonged administration of tolbutamide. Accordingly, in individuals with asymptomatic diabetes mellitus, principally manifested by an abnormal glucose tolerance, continuous use of tolbutamide may result in "normalization" of their tolerance to glucose.

#### INDICATIONS

The principal clinical indication for tolbutamide is diabetes mellitus of the stable type without acute complications such as ketosis or acidosis (variously described as relatively mild adult, maturity onset, or nonketotic type).

In certain diabetic patients with labile diabetes, its use as a supplement to insulin therapy may effect stabilization of the diabetic condition and reduce insulin requirements.

#### WARNINGS

Use in pregnancy: Use of tolbutamide during pregnancy has *not been* established at this time, either from the standpoint of the mother or the fetus. In animal studies tolbutamide has been shown to have feticidal and teratogenic effects at doses of 1,000 to 2,500 milligrams per kilogram of body weight per day; therefore, the use of tolbutamide is not recommended for the management of diabetes when complicated by pregnancy.

These facts should be borne in mind whenever the advisability of administering tolbutamide to women of the childbearing age is considered.

Pseudo-albuminuria: On rare occasions urine containing the tolbutamide metabolite may give a false positive reaction for albumin by the usual test (acidification after boiling), since this procedure causes the metabolite to precipitate.

Tolbutamide is of no value in diabetes complicated by acidosis and coma—here insulin is indispensable.

In times of stress to the patient, such as fever of any cause, trauma, infection, or surgical procedures, it may be necessary to return the patient to insulin therapy or to use insulin in addition to tolbutamide.

#### PRECAUTIONS

The principles of management of diabetes mellitus are necessary to insure optimal control with tolbutamide and are the same as those requiring insulin.

In patients with impaired hepatic and/or renal functions and in debilitated or malnourished individuals, careful observation of the patient and adjustment of dosage is mandatory to prevent the occurrence of hypoglycemia.

Thiazide type of diuretic may aggravate the diabetic state and altar the tolbutamide dosage required.

#### ADVERSE REACTIONS

Hypoglycemia in association with tolbutamide therapy is a rare occurrence in persons who eat regularly and who do not overexercise without appropriate caloric supplementation. It is most likely to occur during the period of transition from insulin to tolbutamide and should be considered in patients who have hepatic and/or renal disease and who are debilitated or malnourished. Other untoward reactions consist principally of gastrointestinal disturbances (nausea, epigastric fullness, heartburn) and headache; these appear to be dose-related and may disappear when dosage is reduced. Allergic skin manifestations (pruritus, erythema, urticaria, morbilliform, or maculopapular eruptions) occur and are usually transient and may disappear with continued dosage. If the skin reactions persist, the drug should be discontinued. Precipitation of attacks of hepatic porphyria and porphyria cutanea tarda has been reported.

#### DOSAGE

Progress should be followed with glucose tolerance determinations at 3- to 6-month intervals.

There is no fixed dosage regimen for management of diabetes with tolbutamide.

One suggested schedule utilizes a priming dose of 3 grams on the initial day, tapering the dosage to 1 gram over a 3-day period; however, therapy may begin with as little as 0.5 gram per dosage adjusted according to the patient's clinical control. The ideal dose is the smallest amount which will maintain optimum control. This will vary among patients from a range of 0.5 gram to as much as 2 grams. Maintenance dosage over 2 grams (4 tablets) is seldom required.

It is preferred that the daily dose be taken in divided doses due to the active half-life of the drug. Occasionally patients who initially respond are later found to have unsatisfactory control. This may be attributed to factors which are known to aggravate the diabetic state, and control may be restored with increase in dosage. A small number of patients may exhibit idiopathic loss of responsiveness after an extended period of good control and are termed secondary failures.

#### PATIENTS RECEIVING INSULIN

Patients requiring 20 units or less of insulin per day may be placed directly on tolbutamide with the insulin being abruptly discontinued and the patients carefully observed. Patients whose daily insulin requirement is above 20 units may be started on tolbutamide with a reduction in insulin therapy. This reduction varies with the severity of the diabetic states and with the level of insulin dosage range. For example, a reduction of 20 percent of dosage may be needed in those receiving over 40 units per day while a reduction of 30 to 50 percent may be needed in those receiving less than 40 units per day.

Diabetics requiring higher insulin dosages may require hospitalization if conversion to tolbutamide therapy is attempted, and on all occasions require close observation and cooperation between physician and patient. If during the trial period ketosis or unsatisfactory control of diabetes supervenes, the tolbutamide should be discontinued and insulin immediately reinstituted.

During the process of conversion during the use of combination therapy, hypoglycemia may occur and is relatively rare. Both physician and patient should be aware of this possibility and appropriate measures taken to safeguard against this occurrence.

In a similar way unstable diabetics may be controlled more easily with the concomitant use of tolbutamide. Reduction of insulin dosage is variable and can only be judged by the patient's response and clinical status.

COMBINATION THERAPY WITH PHENFORMIN

The use of phenformin in conjunction with tolbutamide therapy is indicated in resistant keto-acidosis (maturity onset or adult-stable-nonketotic type) diabetes mellitus when optimal control is not obtained with tolbutamide or phenformin alone or secondary failures occur.

OVERDOSAGE

Hypoglycemia may occur in those patients who do not eat regularly or who exercise without caloric supplementation. This is treated in the usual manner, by supplying carbohydrate, in various forms, dependent upon the patient's clinical status.

The holder of the new-drug application for this drug has been mailed a copy of the NAS–NRC report along with a copy of the labeling conditions contained in this announcement. Any manufacturer, packer, or distributor of a drug of similar composition and labeling to the drug listed in this announcement or any other interested person may obtain a copy of the NAS–NRC report by a request to the office named below.

Communications forwarded in response to this announcement should be directed to the attention of the following appropriate office and addressed to the Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204:

Requests for NAS-NRC report: Press Relations Office (CE–300).
Supplements: Office of Marketed Drugs, Bureau of Medicine (MD–300).
Comments on this announcement: Special Assistant for Drug Efficacy Study Implementation, Bureau of Medicine (MD–16).

This statement is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sections 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 19, 1968.

HERBERT L. LEY, Jr.,
*Commissioner of Food and Drugs.*

[F.R. Doc. 68–11751; Filed, Sept. 26, 1968; 8:49 a.m.]

## GLUCAGON FOR INJECTION

### Drugs for Human Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Glucagon for injection, containing 1 milligram or 10 milligrams of glucagon powder as the hydrochloride; Eli Lilly & Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 12–122).

The Food and Drug Administration concurs in the evaluation of the Academy that this drug is effective as a glycemic agent for the treatment of hypoglycemic reactions associated with insulin therapy and that the labeling for the product should be revised to further clarify its conditions for use.

An approved new-drug application pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act is required for marketing this article.

The above-named applicant is requested to submit within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, a supplemental new-drug application to provide for revised labeling. Those parts of the labeling described below should be substantially as follows:

ACTIONS

It causes an increase in blood glucose concentration. It is used in the treatment of hypoglycemic states and is effective in small doses. No evidence of toxicity has been reported with the use of glucagon. Glucagon converts liver glycogen to glucose. Glucagon acts only on the liver glycogen.

INDICATIONS

Glucagon is useful in counteracting severe hypoglycemic reactions in diabetic patients or during insulin shock therapy in psychiatric patients. Glucagon is helpful in hypoglycemic states only if liver glycogen is available. It is of little or no help in states of starvation, adrenal insufficiency, or chronic hypoglycemia.

The juvenile diabetic in hypoglycemia does not respond satisfactorily to glucagon. In the adult stable diabetic there is an average increase of 55 to 60 milligram percent in the blood glucose whereas in the juvenile or unstable diabetic there is only an average increase of 20 to 25 milligram percent.

CONTRAINDICATIONS

Since glucagon is a protein, hypersensitivity is a possibility.

PRECAUTIONS

In treating hypoglycemic shock with glucagon, liver glycogen must be available. Glucagon is of little help in starvation states, adrenal insufficiency, and chronic hypoglycemia. Glucose by intravenous route or by gavage should be considered in the hypoglycemic patient.

ADVERSE REACTIONS

Glucagon is relatively free of adverse reactions, except for occasional nausea and vomiting which may also occur with hypoglycemia.

DOSAGE AND ADMINISTRATION

DIRECTIONS FOR USE OF GLUCAGON

1. Dissolve the lyophilized glucagon in the accompanying solvent.

2. Give 0.5 to 1 milligram of glucagon by subcutaneous, intramuscular, or intravenous injection.

3. The patient will usually awaken in 5 to 20 minutes. If the response is delayed, there is no contraindication to the administration of one or two additional doses of glucagon; however, in view of the deleterious effects of cerebral hypoglycemia and depending on the duration and depth of coma, the use of parenteral glucose must be considered by the physician.

4. Intravenous glucose must be given if the patient fails to respond to glucagon.

5. When the patient responds, give supplemental carbohydrate to restore the liver glycogen and prevent secondary hypoglycemia.

GENERAL MANAGEMENT OF HYPOGLYCEMIA

The following are helpful measures in the prevention of hypoglycemia reactions due to insulin: (1) Reasonable uniformity from day to day with regard to diet, insulin, and exercise; (2) careful adjustment of the insulin program so that the type (or types) of insulin, dose, and time (or times) of administration are suited to the individual patient; (3) frequent testing of the urine so that a change in insulin requirements can be foreseen; and (4) routine carrying of sugar, candy, or other readily absorbable carbohydrate by the patient so that it may be taken at the first warning of an oncoming reaction. If the patient is unaware of the symptoms of hypoglycemia, he may lapse into insulin shock; therefore, the subject of insulin reactions should be discussed with the patient whenever the physician believes it feasible.

It is important that the patient be aroused as quickly as possible, for prolonged hypoglycemic reactions may result in cortical damage. Glucagon or intravenous glucose will awaken the patient sufficiently so that oral carbohydrates may be taken.

INSTRUCTIONS TO THE FAMILY

Instructions describing the method of using this preparation are included in the literature which accompanies the patient's package. It is advisable for the patient to become familiar with the technique of preparing glucagon for injection before an emergency arises.

Caution—Although glucagon may be used for the treatment of hypoglycemia by the patient during an emergency, the physician must still be notified when hypoglycemic reactions occur so that the dose of insulin may be adjusted more accurately.

INSULIN SHOCK THERAPY

Dissolve the lyophilized glucagon in the accompanying solvent.

After 1 hour of coma, inject 0.5 to 1 milligram of glucagon by the subcutaneous intramuscular or intravenous route. Larger doses may be employed if desired.

The patient will usually awaken in 10 to 25 minutes. If no response occurs within the desired interval, the dose may be repeated. Upon awakening, the patient should be fed orally as soon as possible and the usual dietary regimen followed.

In a very deep state of coma, such as Stage IV or Stage V of Hemwich, intravenous glucose should be given in addition to glucagon for a more immediate response. Glucagon and glucose may be used together without decreasing the efficacy of glucose administration.

The holder of the new-drug application for this drug has been mailed a copy of the NAS-NRC report along with a copy of the labeling conditions contained in this announcement. Any manufacturer, packer, or distributor of a drug of similar composition and labeling to the drug listed in this announcement or any other interested person may obtain a copy of the NAS-NRC report by a request to the office named below.

Communicatons forwarded in response to this announcement should be directed to the attention of the following appropriate office and addressed to the Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204:

Requests for NAS-NRC report: Press Relations Office (CE–300).
Supplements: Office of Marketed Drugs, Bureau of Medicine (MD–300).
Comments on this announcement: Special Assistant for Drug Efficacy Study Implementation, Bureau of Medicine (MD-16).

This statement is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the

Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 19, 1968.

HERBERT L. LEY, Jr.,
*Commissioner of Food and Drugs.*

[F.R. Doc. 68-11752; Filed, Sept. 26, 1968; 8:49 a.m.]

## Office of the Secretary

## OFFICE OF EDUCATION

### Statement of Organization, Functions, and Delegations of Authority

Part 6 (Office of Education) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (32 F.R. 10476, et seq., dated July 15, 1967, as amended by 33 F.R. 1215, dated Jan. 30, 1968) is hereby amended to (1) change the title of the Contracts Division, Office of Administration, to Contracts and Grants Division, and (2) change the title of the Program Support Division, Office of Information, to Editorial Services Division.

The organization, functions, and delegations of authority now read as follows:

6-B Organization and functions

* * * * *

*Office of Administration.*

* * * * *

*Contracts and Grants Division.* Formulates contract and grant management policy and procedure for the Office of Education; directs the negotiation and administration of contracts and grants awarded by the Office of Education.

* * * * *

*Office of Information.*

* * * * *

*Editorial Services Division.* Provides a wide variety of editorial services to assist the bureaus and staff offices in preparing position papers, articles, and other material about Office of Education programs.

* * * * *

Dated: September 24, 1968.

DONALD F. SIMPSON,
*Assistant Secretary for Administration.*

[F.R. Doc. 68-11747; Filed, Sept. 26, 1968; 8:48 a.m.]

# ATOMIC ENERGY COMMISSION

[Docket No. 50-313]

## ARKANSAS POWER & LIGHT CO.

### Order Rescheduling Time of Prehearing Conference

In the matter of Arkansas Power & Light Co. (Russellville Nuclear Unit), Docket No. 50-313.

*It is hereby ordered,* That the Prehearing Conference originally scheduled to be held at 10 a.m., on October 15, 1968, in Room 115 of the Lafayette Building, 811 Vermont Avenue NW., Washington, D.C. 20420, be and hereby is rescheduled for 2 p.m. on that day.

Only the time of the Prehearing Conference is changed by this order, and no other provisions of the notice of hearing, as published by the Atomic Energy Commission in the FEDERAL REGISTER on September 20, 1968, at 33 F.R. 14243, are hereby modified.

Issued: September 25, 1968, Washington, D.C.

ATOMIC SAFETY AND LICENSING BOARD,
A. A. WELLS,
*Chairman.*

[F.R. Doc. 68-11821; Filed, Sept. 26, 1968; 8:52 a.m.]

# CIVIL AERONAUTICS BOARD

[Docket No. 20187; Order 68-9-94]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority September 20, 1968.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 36 cents per great circle aircraft mile for the transportation of mail by aircraft between Jonesboro, Ark., and Little Rock, Ark., via Batesville, Ark.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D-18-S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Jonesboro and Little Rock, Ark., via Batesville, Ark., shall be 36 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered,* That:

1. Orion Airways, Inc., the Postmaster General, Trans-Texas Airways, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., the Postmaster General, and Trans-Texas Airways, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68-11754; Filed, Sept. 26, 1968; 8:49 a.m.]

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

[Docket No. 20188; Order 68-9-92]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority September 20, 1968.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of

36 cents per great circle aircraft mile for the transportation of mail by aircraft between Texarkana, Tex., and Little Rock, Ark., via Camden, Ark.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beach, Model D–18–S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Texarkana, Tex., and Little Rock, Ark., via Camden, Ark., shall be 36 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered*, That:

1. Orion Airways, Inc., the Postmaster General, Trans-Texas Airways, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., the Postmaster General, and Trans-Texas Airways, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68–11755; Filed, Sept. 26, 1968; 8:49 a.m.]

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

[Docket No. 20189; Order 68–9–93]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority September 20, 1968.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 35 cents per great circle aircraft mile for the transportation of mail by aircraft between Fort Smith and Little Rock, Ark.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D–18–S twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Fort Smith and Little Rock, Ark., shall be 35 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered*, That:

1. Orion Airways, Inc., the Postmaster General, Braniff Airways, Inc., Frontier Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., the Postmaster General, Braniff Airways, Inc., and Frontier Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68–11756; Filed, Sept. 26, 1968; 8:49 a.m.]

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

[Docket No. 20190; Order 68–9–98]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Service Mail Rate

Issued under delegated authority September 20, 1968.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 36 cents per great circle aircraft mile for the transportation of mail by aircraft between West Memphis, Ark., and Little Rock, Ark.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D–18–S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between West Memphis, Ark., and Little Rock, Ark., shall be 36 cents per great circle mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered*, That:

1. Orion Airways, Inc., the Postmaster General, and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68–11757; Filed, Sept. 26, 1968; 8:49 a.m.]

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

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[Docket No. 20191; Order 68–9–99]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority September 20, 1968.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air-taxi operator, a final service mail rate of 40 cents per great circle aircraft mile for the transportation of mail by aircraft between Kirksville and St. Louis, Mo., via Columbia, Mo.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D–18–S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between Kirksville and St. Louis, Mo., via Columbia, Mo., shall be 40 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered*, That:

1. Orion Airways, Inc., the Postmaster General, Ozark Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., the Postmaster General, and Ozark Air Lines, Inc.

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68-11758; Filed, Sept. 26, 1968; 8:49 a.m.]

[Docket No. 20192; Order 68-9-100]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority September 20, 1968.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 36 cents per great circle aircraft mile for the transportation of mail by aircraft between Poplar Bluff, Mo., and St. Louis, Mo., via Cape Girardeau, Mo.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D-18-S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Poplar Bluff, Mo., and St. Louis, Mo., via Cape Girardeau, Mo., shall be 36 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered*, That:

1. Orion Airways, Inc., the Postmaster General, Ozark Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., the Postmaster General, and Ozark Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68-11759; Filed, Sept. 26, 1968; 8:49 a.m.]

[Docket No. 20193; Order 68-9-101]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority, September 20, 1968.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 36 cents per great circle aircraft mile for the transportation of mail by aircraft between Cape Girardeau, Mo., and Memphis, Tenn.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D-18-S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Cape Girardeau, Mo., and Memphis, Tenn., shall be 36 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered*, That:

1. Orion Airways, Inc., the Postmaster General, and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68-11760; Filed, Sept. 26, 1968; 8:49 a.m.]

[Docket No. 20194; Order 68-9-102]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority, September 20, 1968.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 35 cents per great circle aircraft mile for the transportation of mail by aircraft between Springfield, Mo., and St. Louis, Mo., via Rolla, Mo.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D-18-S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Springfield, Mo., and St. Louis, Mo., via Rolla, Mo., shall be 35 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered,* That:

1. Orion Airways, Inc., the Postmaster General, Delta Air Lines, Inc., Ozark Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., the Postmaster General, Delta Air Lines, Inc., and Ozark Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68-11761; Filed, Sept. 26, 1968; 8:49 a.m.]

[Docket No. 20195; Order 68-9-103]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority September 20, 1968.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 36 cents per great circle aircraft mile for the transportation of mail by aircraft between Little Rock, Ark., and Oklahoma City, Okla.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D-18-S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Little Rock, Ark., and Oklahoma City, Okla., shall be 36 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered,* That:

1. Orion Airways, Inc., the Postmaster General, Braniff Airways, Inc., American Airlines, Inc., Frontier Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within ten days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.-14(g).

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.-14(g).

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., the Postmaster General, Braniff Airways, Inc., American Airlines, Inc., and Frontier Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68-11762; Filed, Sept. 26, 1968; 8:50 a.m.]

[Docket No. 20196; Order 68-9-104]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

SEPTEMBER 20, 1968.

Issued under delegated authority.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 36 cents per great circle aircraft mile for the transportation of mail by aircraft between Little Rock, Ark., and Dallas, Tex.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D-18-S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Little Rock, Ark., and Dallas, Tex., shall be 36 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered,* That:

1. Orion Airways, Inc., the Postmaster General, American Airlines, Inc., Delta Air Lines, Inc., Braniff Airways, Inc., Frontier Airlines, Inc., Trans-Texas Airways, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determined, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., the Postmaster General, American Airlines, Inc., Delta Air Lines, Inc., Braniff Airways, Inc., Frontier Airlines, Inc., and Trans-Texas Airways, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68-11763; Filed, Sept. 26, 1968; 8:50 a.m.]

[Docket No. 20197; Order 68-9-105]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

SEPTEMBER 20, 1968.

Issued under delegated authority.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 35 cents per great circle aircraft mile for the transportation of mail by aircraft between St. Louis, Mo., and Little Rock, Ark.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D-18-S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between St. Louis, Mo., and Little Rock, Ark., shall be 35 cents per great circle aircraft mile.

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

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered*, That:

1. Orion Airways, Inc., the Postmaster General, American Airlines, Inc., Delta Air Lines, Inc., Braniff Airways, Inc., Frontier Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., the Postmaster General, American Airlines, Inc., Delta Air Lines, Inc., Braniff Airways, Inc., and Frontier Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68-11764; Filed, Sept. 26, 1968; 8:50 a.m.]

[Docket No. 20198; Order 68-9-106]

## ORION AIRWAYS, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

SEPTEMBER 20, 1968.

Issued under delegated authority.

The Postmaster General filed a notice of intent September 6, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 36 cents per great circle aircraft mile for the transportation of mail by aircraft between Little Rock, Ark., and Memphis, Tenn.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech, Model D-18-S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Orion Airways, Inc., in its entirely by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Little Rock, Ark., and Memphis, Tenn., shall be 36 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

*It is ordered*, That:

1. Orion Airways, Inc., the Postmaster General, Trans-Texas Airways, Inc., American Airlines, Inc., Delta Air Lines, Inc., Braniff Airways, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Orion Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Orion Airways, Inc., the Postmaster General, Trans-Texas Airways, Inc., American Airlines, Inc., Delta Air Lines, Inc., and Braniff Airways, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68-11765; Filed, Sept. 26, 1968; 8:50 a.m.]

[Docket No. 20061]

## PACIFIC WESTERN AIRLINES, LTD.

### Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on November 13, 1968, at 10 a.m., e.s.t., in Room 211, Universal Building, 1825 Connecticut Avenue, Washington, D.C., before the undersigned.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 23, 1968.

[SEAL] JOSEPH L. FITZMAURICE,
*Hearing Examiner.*

[F.R. Doc. 68-11766; Filed, Sept. 26, 1968; 8:50 a.m.]

[Docket No. 20115; Order 68-9-91]

## SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

SEPTEMBER 20, 1968.

Issued under delegated authority.

On August 16, 1968, the Postmaster General filed a notice of intent pursuant to 14 CFR, Part 298 petitioning the Board to establish for Sedalia, Marshall, Boonville Stage Line, Inc. (Stage Line), a final service mail rate of 29 cents per great circle aircraft mile for the transportation of mail by aircraft between San Angelo, Brownwood, and Dallas, Tex. No protest or objection was filed against the proposed services during the time for filing such objections.

By Order 68-9-3, dated September 3, 1968, all interested parties, particularly Stage Line, the Postmaster General,

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

Trans-Texas Airways, Inc., and Gardner Flyers, Inc., were directed to show cause why the Board should not establish the service mail rate of 29 cents per great circle aircraft mile proposed therein.

On September 13, 1968, the Postmaster General filed a motion to amend the original petition to provide for a final service mail rate of 33.11 cents per great circle aircraft mile for the transportation of mail by aircraft between San Angelo, Brownwood, and Dallas, Tex. The Postmaster General states that subsequent to Stage Line's submission of its proposal which included 29 cents per great circle aircraft mile as the rate, Stage Line has experienced increased costs as a result of additional requirements imposed by the Post Office Department and new or increased landing and ramp fees imposed by airport operators. The Postmaster General states that these increases in costs were not known nor reasonably foreseeable at the time the notice of intent was filed. The Postmaster General further states that in consideration of these increased costs the Department and the carrier agree that 33.11 cents per great circle aircraft mile is a fair and reasonable rate of compensation for the proposed services which, he believes, will meet postal needs in this market.

Since no service mail rate exists for Stage Line in this market it is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent, the Postmaster General's Motion to Amend the Petition for Final Service Mail Rate, and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Sedalia, Marshall, Boonville Stage Line, Inc., in its entirety by the Postmaster General, pursuant to section 406 of the Act, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between San Angelo, Brownwood, and Dallas, Tex., shall be 33.11 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14 (f),

*It is ordered*, That:

1. Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, Trans-Texas Airways, Inc., and Gardner Flyers, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Stage Line;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, Trans-Texas Airways, Inc., and Gardner Flyers, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 68-11767; Filed, Sept. 26, 1968; 8:50 a.m.]

[Docket No. 19139]

## TAG AIRLINES, INC.

### Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the public hearing in the above-entitled matter now assigned to be held on October 3, 1968, is hereby postponed to October 10, 1968, at 10 a.m., e.d.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

The date for the exchange of rebuttal exhibits and written testimony is changed from September 24, 1968, to October 4, 1968.

Dated at Washington, D.C., September 24, 1968.

[SEAL] ROBERT M. JOHNSON,
*Hearing Examiner.*

[F.R. Doc. 68-11831; Filed, Sept. 26, 1968; 8:52 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 18320-18322; FCC 68-950]

## BROADCASTING AFFILIATES CORP. ET AL.

### Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications Broadcasting Affiliates Corp., Terre Haute, Ind., Docket No. 18320, File No. BPCT-4066; Terre Haute Broadcasting Corp., Terre Haute, Ind., Docket No. 18321, File No. BPCT-4086; Alpha Broadcasting Corp., Terre Haute, Ind., Docket No. 18322, File No. BPCT-4117; for construction permit for new television broadcast station.

1. The Commission has before it for consideration the above-captioned applications each requesting a construction permit for a new television broadcast station to operate on Channel 66, Terre Haute, Ind.

2. There appears to be a significant disparity in the proposed Grade B contours of the applications. In accordance with the Commission's policy evidence with respect to which of the proposals would represent a more efficient use of the frequency may be adduced under the comparative issue.[1]

3. With respect to the issues set forth below, the following considerations are pertinent:

(a) Based on the information contained in the application of Terre Haute Broadcasting Corp. cash in the amount of $635,953 will be needed for the construction and first-year operation of the proposed station, consisting of down payment on equipment—$231,500; first-year interest payments on equipment—$31,253; land—$30,000; building—$50,000; other items—$38,000; first-year interest payments on bank loan of $365,000—$21,900; first-year cost of operation—$233,300. To meet these cash requirements, the applicant relies upon the availability of $365,000 in stock subscription agreements and a bank loan from the Terre Haute First National Bank in an amount not to exceed $500,000 or the total of paid-in-capital, whichever is the lesser of the two amounts. The applicant has demonstrated the availability of $365,000 in stock subscription agreements. Since the proposed bank loan is conditional, in that it provides that satisfactory application must be made to the bank by the applicant's Board of Directors and there is no indication as to what the bank will consider satisfactory application, it cannot be determined that the proposed bank loan will be available to the applicant. Accordingly, appropriate financial issues have been issued.

(b) Based on the information contained in the application of Alpha Broadcasting Corp., cash in the amount of

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

[1] Harriscope, Inc., FCC-65-1165, 2 FCC 2d 223.

$634,156 will be needed for the construction and first-year operation of the proposed station, consisting of down payment on equipment—$226,804; land—$6,000; building—$36,000; other items—$50,000; first-year interest payments on bank loan of $384,000—$25,012; first-year cost of operation—$290,340. To meet these cash requirements, the applicant relies upon the availability of $25,480 in existing paid-in-capital, $359,320, in the remaining portion of stock subscription agreements and a bank loan from the Terre Haute First National Bank in an amount not to exceed $500,000 or the total of paid-in-capital, which ever is the lesser of the two amounts. The applicant has established the availability of $13,256 in existing capital and $319,000 in stock subscription agreements, for a total of $332,256. However, the balance sheets submitted by Elwood Blower, Richard Bruce, Carl McKee, Gordon McLaughlin, Robert Scott, and Ross Woodburn do not reveal liquid and current assets (as defined in section III, paragraph 4(d) FCC Form 301) in excess of current liabilities in sufficient amount to meet the remainder of their respective stock subscription commitments to the applicant. Moreover, since the proposed bank loan is conditional, in that it provides that satisfactory application must be made to the bank by the applicant's Board of Directors and there is no indication as to what the bank will consider satisfactory application, it cannot be determined that the proposed bank loan will be available to the applicant. Accordingly, appropriate financial issues have been specified.

(c) On September 5, 1968, the Commission granted Broadcast Affiliates Corporation's application for a construction permit for a new UHF television broadcast station for Syracuse, N.Y. We believe that the degree of progress toward completing construction in Syracuse would be relevant to our consideration of Broadcast Affiliates' application in this proceeding. Specifically, unless substantial progress toward putting the Syracuse station on the air is indicated, we believe that Broadcast Associates should not be considered as a serious applicant in this proceeding. Therefore, we are ordering Broadcast Affiliates to submit a report on such progress in this proceeding 3 months after the designation date. The Hearing Examiner is authorized to consider this report as well as any additional evidence which the parties wish to adduce concerning this matter in connection with the determination on issue 3 below.

4. Broadcasting Affiliates is qualified to construct, own, and operate the proposed new television broadcast station and except as indicated by the issues set forth below, Terre Haute Broadcasting Corp. and Alpha Broadcasting Corp. are qualified to construct, own, and operate the proposed new television broadcast station. The applications are, however, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission is, therefore, unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

*It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to the application of Terre Haute Broadcasting Corp.:

(a) Whether, in view of the conditional language in the proposed bank loan from the Terre Haute First National Bank, the applicant will have available the bank loan to finance the construction and first-year operation of the proposed station.

(b) Whether, in the light of the evidence adduced pursuant to the foregoing, Terre Haute Broadcasting Corp. is financially qualified.

2. To determine with respect to the application of Alpha Broadcasting Corp.:

(a) Whether Elwood Blower, Richard Bruce, Carl McKee, Gordon McLaughlin, Robert Scott, and Ross Woodburn have liquid and current assets (as defined in section III, paragraph 4(d), FCC Form 301) in excess of current liabilities in sufficient amounts to meet the remaining portions of their respective stock subscription agreements to the applicant.

(b) Whether, in view of the conditional language in the proposed bank loan from the Terre Haute First National Bank, the applicant will have available the bank loan to finance the construction and first-year operation of the proposed station.

(c) Whether, in the light of the evidence adduced pursuant to the foregoing, Alpha Broadcasting Corp. is financially qualified.

3. To determine which of the proposals would best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

*It is further ordered*, That, Broadcasting Affiliates Corp. shall submit a report, within 3 months from September 17, 1968, indicating the progress made toward constructing Channel 62 in Syracuse, N.Y.

*It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

*It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 17, 1968.

Released: September 24, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 68-11768; Filed, Sept. 26, 1968; 8:50 a.m.]

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[Docket No. 18325; FCC 68-952]

## CORAL TELEVISION CORP. (WCIX-TV)

### Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of Coral Television Corp. (WCIX-TV), Miami, Fla., Docket No. 18325, File No. BMPCT-6256, for modification of construction Permit.

1. The Commission has before it for consideration the above-captioned application of Coral Television Corp., permittee of Television Broadcast Station WCIX-TV, Channel 6, Miami, Fla., for modification of its construction permit (BPCT-2423); the Commission's memorandum opinion and order granting the application (Coral Television Corporation (WCIX-TV), 6 FCC 2d 749, 9 RR 2d 405); and the decision of the U.S. Court of Appeals for the District of Columbia Circuit (L. B. Wilson, Inc. v. Federal Communications Commission, Case No. 20, 845, F. 2d ---------, 13 RR 2d 2031) remanding this matter to the Commission for consideration of questions relating to whether there has been an unauthorized transfer of control of Coral and "trafficking" in Coral's authorization.

2. The sequence of events giving rise to this proceeding is discussed in our memorandum opinion and order in Coral Television Corporation (WCIX-TV), 6 FCC 2d 749, 9 RR 2d 405, and need not be repeated here. The aspect of this matter with which we are concerned relates to the transfer of stock in Coral to and by C. Terence Clyne and Hy Gardner and the circumstances surrounding the traffic in stock and control of the corporation. The Court of Appeals, in remanding this case to the Commission, expressed its concern only with this aspect of the case, although it had before it other questions which had been raised by L. B. Wilson, Inc., the petitioner. The Court did not indicate dissatisfaction with our disposition of these other questions and we read the court's opinion, therefore, as requiring that we reexamine only so much of this matter as relates to the traffic in stock and control of the corporation.

3. There are several basic questions which we think require our careful scrutiny in connection with the various transfers of Coral stock. Under the Stock

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[2] Commisisoners Bartley and Cox absent.

Purchase Agreement of October 14, 1965, by which C. Terence Clyne acquired 40 percent of Coral's stock, before Clyne or any other stockholder could dispose of stock, he would be required to notify the other stockholders of the availability of the stock, the price bid, the terms of payment, and the date of offer. He would also be required to provide first refusal rights on the same terms and conditions to the other stockholders and defer sale for 30 days until the other stockholders could exercise their rights to purchase the stock according to a preset formula. He would then be permitted to sell those shares not acquired by the other stockholders. Clyne, on March 30, 1966, transferred 25 shares of his stock to Hy Gardner, his wife and child, as tenants in common. Question was raised by the court as to whether the provisions of the Stock Purchase Agreement relating to first refusal rights were observed. We have no information on that subject except that provided by Coral in a subsequent pleading entitled "Statement by Coral Television Corporation in Response to Court Remand", filed with the Commission June 19, 1968. The explanation provided in that statement has not been subjected to adversary examination and we believe that this is best accomplished in the context of a hearing. Involved also is the price at which Gardner was permitted to acquire the stock from Clyne as contrasted with the higher prices at which stock was sold to other stockholders.

4. Coral states that, from the first time Coral's President, Leon McAskill, met with Clyne and Gardner to negotiate what ultimately developed into the Stock Purchase Agreement, it was contemplated that Gardner would acquire 5 percent of Coral's stock. This explanation is offered to support the proposition that Gardner "is his own man" and that no privity exists between Clyne and Gardner as to constitute Gardner's 5 percent stock interest the voting property of Clyne. There is no explanation, however, as to why the stock was acquired by Gardner from Clyne rather than pursuant to the Stock Purchase Agreement nor why he was able to purchase it at a price substantially less than had been required of other stockholders. The question of privity, moreover, is not so simply resolved.

5. Another question relates to whether de facto control of the corporation, at any time, passed to Clyne and whether circumstances suggest that such control in fact existed and was tacitly acknowledged by the other stockholders. We believe that all of the facts and circumstances attending the acquisition of stock by Clyne and Gardner and Clyne's role in the management of corporate affairs must be tested in hearing.

6. Subsequent to the sale of stock which gave rise to this proceeding, Coral, on February 5, 1968, filed a "Purchase and Option Agreement" dated January 5, 1968, between Coral and its stockholders and AVC Corp. The agreement, a complex instrument, would give AVC the option to acquire complete control of Coral, replacing, at AVC's option, all of the existing stockholders, officers, and directors. We need not detail the specific provisions of this agreement here; it is sufficient that it reinforces our belief that the traffic in Coral stock is a matter which must be thoroughly examined in hearing to discover whether the permittee has "trafficked" in its broadcast authorization. There are further transactions involving Coral's stock which we wish examined, including the "Employment Agreement" dated March 17, 1967 (filed Sept. 11, 1967), between Coral and Joseph M. Higgins, by which Higgins became general manager and executive vice president of Coral (responsible to Clyne) and was given options to purchase Coral's 6½ percent convertible debentures. These debentures, which could be converted into stock at the rate of 1 share for each $3,000 debenture, were, upon the resignation of Higgins, transferred to AVC Corp. on March 26, 1968. We do not know, at this point, exactly where control of Coral resides and the extent to which AVC is exercising prerogatives inconsistent with its interests in Coral.

7. If the proof shows that there has been "trafficking" in Coral stock and passage of control of the corporation without the prior consent of the Commission, we believe that we are required to determine whether the permittee has the requisite qualifications to continue as a permittee of this Commission. Our approval of the technical transfer of control (BTC–5281, granted Mar. 31, 1967) was premised upon the belief that Clyne could not and did not exercise prerogatives inconsistent with this position in Coral; we had no basis for concluding otherwise. It is our intention that the entire course of dealing in Coral stock and debentures and the management and control of Coral be thoroughly examined in this proceeding. To this end, we have framed the issues broadly in the expectation that the Hearing Examiner will have wide latitude in the matters into which inquiry may be made and the type of evidence which may be adduced.

8. For the reasons we have discussed, we are of the opinion that the application must be designated for hearing on the issues relating to transfer of control and "trafficking". In accordance with our understanding of the opinion of the Court of Appeals, we leave the balance of our decision in Coral Television Corporation, supra, undisturbed and reaffirm our findings therein.

9. On March 13, 1968, petitioner filed a "Motion for Commission to Seek Remand". Petitioner requested that the Commission ask the Court of Appeals to remand the case because the Purchase and Option Agreement of January 5, 1968, called into question the Commission's determination one year previously that Coral was financially qualified. Petitioner further alleged that the Agreement raised questions as to transfer of control and that the departure of Higgins and the station manager raised a question as to whether WCIX–TV was being operated in accordance with Coral's promises. The request for remand is, obviously, moot; the transfer of control question is to be resolved in hearing; the Court of Appeals approved our financial determination sub silentio. Changes in staff personnel are to be expected and raise no question as to whether a station is being operated in accordance with the applicant's promises in the absence of a specific showing that such is the case. We have no such showing here. Consequently, we will dismiss Wilson's motion.

*Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned application of Coral Television Corp. is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the facts and circumstances surrounding the acquisition of stock and convertible debentures of Coral Television Corp. by C. Terence Clyne and the transfer of stock by C. Terence Clyne to Hy Gardner et al.

2. To determine the nature and extent of the role of C. Terence Clyne in the formulation and effectuation of corporate policies and in the management and control of Coral Television Corp.

3. To determine the facts and circumstances surrounding sales and transfers of stock and convertible debentures of Coral Television Corp. since July 1965, including sales prices and other consideration for such transfers.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether there have been transfers of control of Coral Television Corp. without the prior consent of the Commission and whether there has been "trafficking" in Coral's authorization.

5. In the event that it is determined that there have been transfers of control without the prior consent of the Commission or "trafficking" in Coral's authorization, whether the applicant or its principals have the requisite qualifications to be broadcast licensees.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience, and necessity.

*It is further ordered,* That the motion for Commission to seek remand, filed herein by L. B. Wilson, Inc., is dismissed.

*It is further ordered,* That L. B. Wilson, Inc., is made a party respondent in this proceeding.

*It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicant and the party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

*It is further ordered,* That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise

the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 17, 1968.

Released: September 24, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 68-11769; Filed, Sept. 26, 1968; 8:50 a.m.]

[1] Commissioners Bartley and Cox absent; Commissioner Johnson concurring in the result.

[Docket No. 18263; FCC 68-960]

## OPTIONAL TELEGRAPH SERVICES

### Report of Commission Terminating Notice of Inquiry

In the matter of revision of the telegraph regulations (Geneva Revision, 1958) annexed to the International Telecommunication Convention (Montreux, 1965).

1. On July 22, 1968 the Commission adopted a notice of inquiry[1] to elicit comments from interested parties before formulating views on the position that should be taken by the United States on separate proposals made to Study Group I of the International Telephone and Telegraph Consultive Committee (CCITT) of the International Telecommunication Union (ITU) by Australia and Sweden[2] that certain or all provisions relating to optional telegraph services should be transferred from the International Telegraph Regulations (Geneva Revision, 1958) annexed to the International Telecommunication Convention (Montreux, 1965)[3] and be made part of the series of recommendations issued by the CCITT. These proposals will be considered by CCITT Study Group I at a meeting preceding the CCITT Fourth Plenary Assembly to be held during the period, October 14 to October 25, 1968.

*Background.* 2. The telegraph regulations are formulated and revised by occasional ITU Administrative Telephone and Telegraph Conferences, while the CCITT recommendations are formulated at periodic CCITT Plenary Conferences (Study Group I is responsible for the formulation of draft recommendations, relating to telegraph tariffs and operations, to be considered by the Plenary Assembly). In view of the greater frequency of CCITT Plenary Assemblies, and with reference, among other things, to facilitating the updating of operating practices contained in the Regulations, the ITU at its Plenipotentiary Conference held at Montreux in 1965, instructed the CCITT:

(1) to ascertain which provisions of the telegraph regulations are, or could be, the subject of CCITT recommendations and could accordingly be omitted from the regulations; and

(2) to submit proposals for this purpose to the next Plenary Assembly of the CCITT.

After consideration and approval by the CCITT Plenary Assembly, the proposal for simplication shall be submitted to the next world administrative conference dealing with telegraph questions.

3. The United States in CCITT Study Group I meetings has so far taken the position that it agrees to the transfer to CCITT recommendations of telegraph regulations relating to operating matters, but that regulations more directly affecting the public, such as those relating to charges, should be retained. After several meetings of CCITT Study Group I and its working party on revision of the telegraph regulations, agreement had been reached on such transfer of substantially all of the provisions relating to operating practices. However, at the most recent meeting of Study Group I, the Australian and Swedish administrations felt that the regulations would be strengthened as an international document if the regulations relating to optional services were also transferred to the CCITT recommendations. Such regulations generally provide that certain classes of telegraph services, e.g., letter telegrams, press, urgent, etc., may be offered pursuant to bilateral agreements between countries or their carriers, and prescribe certain practices to be followed should such service be so provided. The rationale for such transfer is based on the optional nature of these regulations; i.e., that the services in question are ancillary to the principal telegraph service; are not mandatory; and therefore could be more appropriately placed in the recommendations, leaving in the regulations only provisions that must be adhered to by the signatories in furnishing the basic telegraph message service.

*Comments filed.* 4. The only comments received in response to our inquiry were from two international record carriers, RCA Communications, Inc. (RCA), and Western Union International, Inc. (WUI), and from the American Newspaper Publishers Association (ANPA).

5. WUI has no objection to the transfer to the recommendations of the regulations concerning optional services and recommends adoption of the Australian proposal. It feels that, inasmuch as these provisions are optional in nature, there is no danger of harm to the public resulting from such transfer, and that the industry and the public will benefit from having these provisions appear in a comprehensive set of recommendations. Such transfer, WUI states, will be consistent with the approach being taken with regard to other sections of the regulations and with the opinion expressed by Study Group I at its Melbourne meeting.

6. ANPA submitted a copy of a letter to it from the Director, International Press Telecommunications Committee (IPTC). IPTC believes that, since the provisions concerning press telegrams are not made obligatory by the regulations, they are, in effect, no more than recommendations. It is, therefore, of the opinion that the transfer of some or all of the press telegram regulations to the recommendations is unlikely to have any material effect whatsoever upon the press telegram service.

7. RCA agrees that the regulations applicable to the optional services should, in general, be transferred to the CCITT recommendations. It believes that such transfer would make it easier to currently revise the transferred matter to meet changing conditions, and that this outweighs the benefit of better notice to the public regarding these matters if they remained in the regulations. Moreover, it is RCA's view that the public in the United States would have adequate notice of the availability of the various optional services from tariffs of United States carriers, and that notice at overseas points is a matter which should be left to the competence of the overseas administrations. RCA believes, however, that two of the optional services, i.e., letter telegrams and press telegrams, affect such a large segment of the public and are of such importance that it would be desirable to maintain these in the telegraph regulations.[4]

*Discussion.* 8. While we have originally taken the position that operating matters could be properly transferred from the regulations to the recommendations, we felt, as set forth in the U.S. position submitted to the CCITT, that matters more directly affecting the public tend to be of a nature not requiring revision as often as operating matters, and should be more binding in their application and effect than a recommendation. We also observed that certain services are optional, and if transferred, notice to the public could be impaired.

9. Of the three responses filed in reply to our notice of inquiry herein, only one came from users of the telegraph message services, and interposed no objection to the transfer of optional regulations to the recommendations. Nor did the remaining two comments, which were filed by carriers, offer any objection, in principle, to such transfer.

10. We have reviewed our prior views on the matter, taking into account the responses to our inquiry, and think that our earlier position may be modified. In the absence of any strong opposition to the transfer of the provisions covering optional services, it appears to us that the United States should not, at the forthcoming meeting of Study Group I, interpose objection if a majority of other nations press for such transfer. It is indicated in our notice of inquiry that there are two proposals before Study Group I. As between the two, the Australian proposal seems to better serve the

[1] Released July 25, 1968, 33 F.R. 10955 (1968).

[2] For the texts of the Australian and Swedish proposals see Attachments 3 and 4 to the notice of inquiry herein.

[3] The United States is signatory to both treaties. Treaties and other International Acts Series 4390 and 6267, respectively.

[4] ANPA and RCA also submitted suggestions on other matters pending before CCITT Study Groups which are not material to this inquiry.

interests of the using public, since it would leave in the Regulations a description of the several optional services together with basic conditions of acceptance. Thus the Regulations would continue to provide reasonable references to the ancillary services to the principal message service and the essentials to the providing of such services. This would also be analogous to the treatment in the regulations of other services, such as telex and phototelegrams, which the United States proposed in its original position addressed to the CCITT.

11. The Commission will recommend to the Department of State adoption of the position set forth above.

*Accordingly, it is ordered,* That our inquiry herein is terminated.

Adopted: September 20, 1968.

Released: September 23, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 68-11770; Filed, Sept. 26, 1968; 8:50 a.m.]

[Docket Nos. 18323, 18324; FCC 68-951]

## JOHN WEIGEL ASSOCIATES ET AL.

### Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of John Weigel Associates (a joint venture), Racine, Wis., Docket No. 18323, File No. BPCT-3759; United Broadcasting Corp., Racine, Wis., Docket No. 18324, File No. BPCT-3846; for construction permit for new television broadcast station.

1. The Commission has before it for consideration the captioned applications, each requesting a construction permit for a new commercial television broadcast station to operate on Channel 49, Racine, Wis.

2. With respect to the issues set forth below, the following considerations are relevant:

Based on information contained in the application of John Weigel Associates, cash in the amount of $217,302 will be required to construct and operate the proposed station for 1 year.[1] To meet the cash requirements the applicant relies on the availability of $106,000 in revenues, a $10,000 bank loan and contributions from the joint venturers of $150,000. We can not determine that these funds will be available to the applicant. The bank loan does not meet the requirements of paragraph 4(h), section III, FCC Form 301, since it does not state the terms of repayment, and is contingent upon "statements and documentation that meet the requirements of our bank." In regard to the contributions of the joint venturers, James Wagner has submitted a balance sheet that demonstrates that he has sufficient funds to meet his $10,000 commitment. However, the balance sheets submitted by John Weigel and Bruce Ballard do not disclose sufficient current and liquid assets, as defined in paragraph 4(d), section III, FCC Form 301, in excess of current liabilities to enable them to meet their commitments of $130,000 and $10,000, respectively. As to the revenues, we do not believe that the applicant has demonstrated that the revenues claimed will in fact be available. The applicant has submitted letters from advertising agencies estimating the amount of advertising they might place with a Racine television station. However, these letters are not commitments. We note too that the applicant claims that its first-year operating expenses will be approximately $101,000, with revenues of $106,000. It has been our experience that new UHF stations do not make a profit the first year of operation. This is especially true, as in this case, where the market is overshadowed by existing television stations. We also note that the applicant has not submitted sufficient information to establish the reasonableness of the estimated first-year operating expenses. Accordingly, appropriate financial issue have been specified.

3. John Weigle Associates has submitted a programing schedule that indicates that part of its programing will be in the Spanish language. We take this opportunity to bring to the applicant's attention, that in the event it is granted the construction permit, it has the responsibility to establish and maintain procedures to insure sufficient familiarity with the Spanish language to know what is being broadcast and whether such broadcasts conform to the station's policies and the requirements of the Commission's rules. See public notice of March 30, 1967, Mimeo No. 95960, FCC 67-368. While the applicant has submitted a programing schedule, it has failed to provide full information on the steps it has taken to become informed of the needs and interests of the residents of the Racine area, the programing suggestions received, and an evaluation of those suggestions, as required by Minshall Broadcasting Co., Inc., 11 FCC 2d 796, FCC 68-184. Accordingly, a programing issue has been specified.

4. United Broadcasting Corp. has conducted a survey, and has submitted a proposed program schedule. However, it has not stated what suggestions were received in the survey, and, therefore, an evaluation in the light of those suggestions is not presented. The applicant does not, therefore, meet the requirements of Minshall Broadcasting Co., Inc., above, and a programing issue has been specified.

5. The principals of John Weigel Associates currently have ownership interests in Weigel Broadcasting Co., licensee of television broadcast station WCIU-TV, Channel 26, Chicago, Ill. The predicted Grade B contour of Station WCIU-TV and the Grade B contour proposed by John Weigel Associates overlap. However, the application states that the principals will sever their relationship with Station WCIU-TV, so that no duopoly question arises. However, in the event John Weigel Associates is awarded the construction permit, it is conditioned in that its principals will be required to divest themselves of their interests in Station WCIU-TV prior to the commencement of operation of the Racine facility.

6. The city limits of Racine and Kenosha, Wis. are about 5 miles apart. United Broadcasting Corp. is owned 50 percent each by the publishers of the only daily newspaper in their respective communities. One of them, the Journal-Times Co., is the 100 percent owner of the Racine Broadcasting Corp., licensee of radio broadcast stations WRJN(AM) and WRJN-FM, Racine. It appears, in view of the common ownership of newspapers and radio stations in the area by the principals of United Broadcasting Corp., that an undue concentration of control of mass media may arise by a grant of United's application, particularly in regard to local news and events. Accordingly, an appropriate issue has been specified.

7. There appears to be a significant disparity in the proposed Grade B contours of the facilities proposed by the applicants. Accordingly, evidence with respect to which of the proposals would represent a more efficient use of the frequency may be adduced under the comparative issue.[2]

8. John Weigel Associates proposes to locate its main studios at its transmitter site, two blocks outside the corporate limits of Racine. The applicant states that this location is readily accessible and that the combined studio-transmitter site will result in a more efficient operation. We believe that good cause has been shown for locating the studio outside the principal community and the proposed location would not be inconsistent with the operation of the station in the public interest. Therefore, in the event of a grant of the application of John Weigel Associates, our consent to the location will be granted, pursuant to section 73.613(b) of the rules.

9. United Broadcasting Corp. proposes to broadcast from the same antenna tower as radio broadcast stations WRJN (AM) and WRJN-FM, Racine, Wis. In order to accommodate the television antenna, changes in the existing antenna systems of Stations WRJN(AM) and WRJN-FM will be required. Accordingly, in the event of a grant of the application of United Broadcasting Corp., the grant will be subject to the condition that construction shall not begin until appropriate applications to make changes in the authorized facilities of Stations WRJN(AM) and WRJN-FM have been filed and granted.

10. Except as indicated by the issues set forth below, each of the applicants

[5] Commissioner Bartley absent; Commissioner Johnson concurring in the result.

[1] Consisting of down payment on equipment ($37,500), payments on equipment ($28,128), interest on equipment ($3,938), land ($14,000), buildings ($14,000), tower construction ($10,896), payments and interest on loan ($2,600), first-year operating expenses ($101,240), and miscellaneous expenses ($5,000).

[2] Harriscope, Inc., FCC 65-1165, 2 FCC 2d 233.

is qualified to construct, own, and operate the proposed new television broadcast station. The applications are, however, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission is, therefore, unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and the applications must be designated for hearing in a consolidated proceeding on the issues set forth below.

*Accordingly, it is ordered,* That the captioned applications of John Weigel Associates and United Broadcasting Corp., pursuant to section 309(e) of the Communications Act of 1934, as amended, are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to the application of John Weigel Associates:

(a) Whether the applicant has established a reasonable basis for the estimated operating expenses.

(b) Whether the applicant has a $10,000 bank loan available from the Northlake Bank, Northlake, Ill., and if so, its terms, conditions, and security, if any.

(c) Whether John Weigel and Bruce Ballard have current and liquid assets in excess of current liabilities in sufficient amount to enable them to meet their commitments to the applicant.

(d) Whether the applicant will have available sufficient revenues to supplement available funds.

(e) Whether, in light of the evidence adduced pursuant to the above, John Weigel Associates is financially qualified.

(f) The efforts made by John Weigel Associates to ascertain the community needs and interest of the area to be served and the means by which the applicant proposes to meet those needs and interests.

2. To determine with respect to the application of United Broadcasting Corp.:

(a) The efforts made by United Broadcasting Corp. to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(b) Whether a grant of the application would tend to create an undue concentration of control over the mass media in the Racine-Kenosha, Wis., area.

3. To determine which of the proposals would better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the above issues, which, if either, of the applications should be granted.

*It is further ordered,* That in the event of a grant of the application of John Weigel Associates, Commission consent to the proposed location of the main studios outside of the principal community of Racine, pursuant to § 73.613(b) of the Commission's rules, shall be granted.

*It is further ordered,* That in the event of a grant of the application of John Weigel Associates, the grant will be made subject to the following condition:

That prior to the date that operation begins on channel 49, John Weigel, Bruce Ballard, and James Wagner will divest themselves of their respective interests in Weigel Broadcasting Co. (WCIU–TV).

*It is further ordered,* That in the event of a grant of the application of United Broadcasting Corp., the grant will be made subject to the following condition:

That construction shall not commence until appropriate applications to make changes in the antenna systems of Stations WRJN(AM) and WRJN–FM have been filed and granted.

*It is further ordered,* That the applicants, to avail themselves of the opportunity to be heard, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

*It is further ordered,* That the applicants shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 17, 1968.

Released: September 24, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[3]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 68–11771; Filed, Sept. 26, 1968; 8:50 a.m.]

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[Docket No. 18319; FCC 68–939]

## MARITIME DISTRESS SIGNALS

### Notice of Inquiry

In the matter of an inquiry relating to preparation for the fifth session of the Intergovernmental Maritime Consultative Organization (IMCO), subcommittee on radio communications, to formulate proposals for improving maritime distress systems.

1. The purpose of this inquiry is to obtain comments and recommendations from interested persons for improving maritime distress systems which can be considered by the Commission in preparation of United States advanced documentation and position material for use at the fifth session of the Intergovernmental Maritime Consultative Organization (IMCO), subcommittee on radio communications, which is scheduled to be held in London, England, January 14–17, 1969.

2. From the preliminary studies made thus far on the merits and deficiencies of present maritime distress systems, the subcommittee determined at its fourth session that a further exploration of listening watch requirements, radiotelephone alarm systems, calling procedures, emergency-position-indicating-radiobeacons, and radio direction-finding stations is needed.

3. The subcommittee also reaffirmed its views expressed at its first session, with respect to the matter of keeping a watch on 2182 kc/s, that it is desirable for ships to keep watch on 2182 kc/s when in an area of ships in distress, and that ships be encouraged to maintain, as far as possible, a watch on 2182 kc/s even if this requirement does not apply to them. In addition, the subcommittee identified certain specific subjects which appear to be worthy of further exploration as early measures which should be considered for the purpose of improving the present maritime distress systems. It was agreed that the subjects, which are listed under items 4, 5 and 6 of this Inquiry, would be included on the agenda and discussed at the next session.

4. Specific comments are invited on any or all of the following individual items intended to improve the present maritime distress system which are scheduled for discussion at the subcommittee's next session. These items are listed below in the order of the importance and urgency attached to them by the IMCO subcommittee on radio communications:

(a) Improving the listening watch required by the Safety of Life at Sea (SOLAS) Convention on 2182 kc/s.

(b) Improved control of unnecessary radiotelephone alarm signal emissions.

(c) Watch by radiotelegraph ship stations on the radiotelephone distress frequency.

(d) Carriage of separate 2182 kc/s watch receiver on radiotelegraph and/or radiotelephone ships.

(e) Mandatory carriage by all radiotelephone ships of the radiotelephone alarm signal generator.

(f) Restricting calling of pilot or other similar service stations by ships on 2182 kc/s.

(g) Restricting at national level ship-to-coast station calls on 2182 kc/s.

(h) Utilization of 2182 kc/s for safety and urgency messages and for emergency purposes.

(i) Whether or not all or certain ships should be required or encouraged to carry the position-indicating radio beacons.

(j) Restricting calling of individual ships by coast stations on 2182 kc/s.

(k) Inclusion of 8364 kc/s or some other suitable frequency as a long-range distress frequency.

(l) Listening watch on 500 kc/s.

(m) Use of shore based direction-finding stations on 500 kc/s and 2182 kc/s.

5. Comments are also requested on the following questions which will be examined and discussed:

(a) Watch-keeping arrangements, i.e., a re-examination of the criteria used in deciding which cargo ships should keep radiotelephone watch as opposed to radiotelegraph watch including a study of a possible new concept of area of operation in lieu of tonnage as a criterion of the kind of equipment that should be carried (radiotelegraph or radiotelephone).

[3] Commissioners Bartley and Cox absent; Commissioner Lee concurring in the result.

(b) Shipborne radio equipment; unification of performance specifications and application rules. It should be noted that the subcommittee has exchanged views on the need for unification of performance specifications and that this subject is under consideration by certain governments and other international bodies.

6. Your comments are also invited on the following general points for future improvements to the maritime distress system which the subcommittee has agreed should be taken into account and examined:

(a) Whether there should be a single universal distress frequency, and should it provide for medium or long-range communications.

(b) Whether such frequency, if one is sufficient, should be either of the present distress frequencies, or a completely new one.

(c) Whether the use of the international distress frequencies should be prohibited for calling purposes.

(d) Whether watchkeeping (either human or automatic) on distress frequencies should be continuous in all circumstances.

(e) Consideration of the possibility of using VHF and UHF radiotelephony equipment, mainly for air/sea communications.

(f) The impact of introducing selective calling on distress communications in the future.

(g) Consideration of the present limits of the Convention for the carriage of direction-finding equipment.

7. Interested parties are invited to file their comments relative to the subject agenda matter identified under items 4, 5, and 6 of this Inquiry. Authority for this Inquiry is contained in section 403 of the Communications Act of 1934, as amended. Comments in reference to this Inquiry, pursuant to § 1.415 of the Commission's rules should be submitted on or before November 1, 1968. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements or comments shall be furnished to the Commission. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

Adopted: September 17, 1968.

Released: September 24, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 68-11772; Filed, Sept. 26, 1968; 8:50 a.m.]

[1] Commissioners Bartley and Cox absent.

# FEDERAL MARITIME COMMISSION

## CALIFORNIA ASSOCIATION OF PORT AUTHORITIES AND NORTHWEST MARINE TERMINAL ASSOCIATION

### 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. C. R. Nickerson, Executive Secretary, California Association of Port Authorities, 9 First Street, San Francisco, Calif. 94105.

Agreement No. T-2206 between the California Association of Port Authorities and the Northwest Marine Terminal Association provides for the formation of a joint conference whereby members of each association may discuss and make recommendations concerning rates, practices, and other tariff matters and matters of concern to the marine terminal industry. Actions taken pursuant to the agreement are not binding upon the members.

Dated: September 24, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
*Secretary.*

[F.R. Doc. 68-11779; Filed, Sept. 26, 1968; 8:51 a.m.]

## COMPAGNIE MARITIME BELGE, S.A., 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.

Compagnie Maritime Belge, S.A.; the Bristol City Line of Steamships Ltd.; Clarke Traffic Services Ltd.

Notice of agreement filed for approval by:

Mr. Edwin Longcope, Hill, Betts, Yamaoka, Freehill and Longcope, 26 Broadway, New York, N.Y. 10004.

Agreement No. 9745 between Compagnie Maritime Belge, S.A., the Bristol City Line of Steamships Ltd., and Clarke Traffic Services Ltd., has been filed for section 15 approval. The subject agreement recites that each of the parties, either in its own name or through its wholly owned subsidiary, will be a common carrier by water in trades between Europe and/or Eastern Canada and the United States.

The parties agree to form a corporation for the conduct of a general cargo transportation service in conventional or container vessels in the trades between ports on the Continent and United Kingdom, and Eastern Canadian ports and U.S. North Atlantic ports, and between Eastern Canadian ports and U.S. North Atlantic ports. Each party shall have stock in the corporation when it is formed in proportion to the amount of its investment to be agreed upon, and no party may dispose of its interest without first offering the same for sale to the other parties. Provision is made for the time-charter by the corporation of vessels to be constructed by the parties, for the charter of additional vessels if necessary, and for sub-charter in whole or in part to any person, including any party to the subject agreement, for all or part of any voyage or for a stated period of time, any vessels which it had chartered.

Provision is made for the acquisition and control by the corporation of containers and related equipment, the filing of tariffs, appointment of agents, and for the making of arrangements for terminal services at the ports served. The agreement may be cancelled upon 36 months notice in writing by any of the parties to the other parties, provided that such cancellation shall not become effective prior to the expiration or termination of all charters of vessels. The

Agreement further provides for arbitration of all disputes which cannot be resolved by the parties.

Dated: September 24, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
*Secretary.*

[F.R. Doc. 68-11780; Filed, Sept. 26, 1968; 8:51 a.m.]

## INTER-AMERICAN FREIGHT CONFERENCE

### 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. Wilbur Van Emburgh, Executive Administrator, Inter-American Freight Conference—Section A, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 9648-A-1, entered into by the member lines of the Inter-American Freight Conference Agreement, modifies Article 21 thereof by deleting the words "* * * agency charged with the administration of section 15 of the Shipping Act, 1916, as amended, * * *." as they appear in the second paragraph of that article and substituting therefor the following:

"* * * authorities having jurisdiction over this agreement, * * *."

The inclusion of the new wording will require the filing of monthly reports containing information on complaints of rebates or other malpractices with all the governmental authorities having jurisdiction over the Conference Agreement.

Dated: September 24, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
*Secretary.*

[F.R. Doc. 68-11781; Filed, Sept. 26, 1968; 8:51 a.m.]

## PIER, INC., AND HANSEN SEAWAY SERVICE, LTD.

### 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. Thomas D. Wilcox, 1625 K Street NW., Washington, D.C. 20006

Agreement No. T-2207 between Pier, Inc. (Pier), and Hansen Seaway Service, Ltd. (Hansen), is a Stevedoring Service Agreement whereby Hansen will render stevedoring services on Pier's behalf to Pier's customers, including rail car and truck loading and unloading, at premises leased by Pier. Compensation will be at rates set forth in the agreement.

Dated: September 24, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
*Secretary.*

[F.R. Doc. 68-11782; Filed, Sept. 26, 1968; 8:51 a.m.]

# FEDERAL POWER COMMISSION

[Project No. 2088, 2100]

## OROVILLE-WYANDOTTE IRRIGATION DISTRICT AND DEPARTMENT OF WATER RESOURCES OF STATE OF CALIFORNIA

### Notice Fixing Oral Argument

SEPTEMBER 19, 1968.

The Commission has before it the Presiding Examiner's Initial Decision issued March 11, 1968, the Briefs on Exceptions, and the Briefs Opposing Exceptions. A request for oral argument was filed by Oroville-Wyandotte Irrigation District in these proceedings.

Take notice that an oral argument in the above-captioned proceedings will be heard by the Commission en banc commencing at 10 a.m., e.s.t., November 18, 1968, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

All parties desiring to participate in such oral argument shall notify the Secretary of the Commission in writing on or before October 28, 1968, of the amount of time desired for presentation of their respective arguments.

By direction of the Commission.

GORDON M. GRANT,
*Secretary.*

[F.R. Doc. 68-11731; Filed, Sept. 26, 1968; 8:47 a.m.]

[Docket No. RP69-4]

## TRUNKLINE GAS CO.

### Amended Notice of Postponement of Hearing

SEPTEMBER 19, 1968.

Upon consideration of the request filed on September 10, 1968, by Trunkline Gas Co. that the hearing fixed by order issued August 30, 1968, in the above-designated matter, be postponed from September 24, 1968, to September 27, 1968;

Notice is hereby given that the hearing fixed by order issued August 30, 1968, in the above-designated matter is postponed to September 27, 1968, at 10 a.m., e.d.t.

GORDON M. GRANT,
*Secretary.*

[F.R. Doc. 68-11732; Filed, Sept. 26, 1968; 8:47 a.m.]

[Docket No. RP69-8]

## VALLEY GAS TRANSMISSION, INC.

### Notice of Proposed Changes in Rates and Charges

SEPTEMBER 19, 1968.

Notice is hereby given that Valley Gas Transmission, Inc., on September 17, 1968, filed proposed changes in its FPC gas tariff to be effective as of November 1, 1968. The proposed changes would increase rates by 1 cent per Mcf for sales made under Rate Schedules, 1, 2, 3, 5, and 8, and would increase costs to jurisdictional customers by approximately $330,000 per year based on sales for the period ending July 31, 1969, as adjusted.

Valley Gas Transmission states that the principal reasons for the increased rates are (1) increased purchase gas costs, (2) increased taxes, and (3) increased salaries, wages, and operating expenses.

Protests, petitions to intervene, or notices of intervention may be filed with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, pursuant to the Commission's rules of practice and procedure on or before October 11, 1968.

GORDON M. GRANT,
*Secretary.*

[F.R. Doc. 68-11733; Filed, Sept. 26, 1968; 8:47 a.m.]

# SECURITIES AND EXCHANGE COMMISSION

## ALCAR INSTRUMENTS, INC.

### Order Suspending Trading

SEPTEMBER 23, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Alcar Instruments, Inc., 225 East 57th Street, New York, N.Y., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered,* Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 24, 1968 through October 3, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-11736; Filed, Sept. 26, 1968; 8:47 a.m.]

[File No. 1-3421]

## CONTINENTAL VENDING MACHINE CORP.

### Order Suspending Trading

SEPTEMBER 23, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered,* Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 24, 1968 through October 3, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-11737; Filed, Sept. 26, 1968; 8:47 a.m.]

[81-25]

## CUBAN ELECTRIC CO.

### Notice of Application and Opportunity for Hearing

SEPTEMBER 23, 1968.

Notice is hereby given that Cuban Electric Co., 2 Rector Street, New York, N.Y. 10006, a Florida corporation, has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended ("Act"), for an order of the Commission exempting the company from the requirements of section 12(g) of the Act.

Section 12(h) of the Act authorizes the Commission upon application, by order, after notice and opportunity for hearing, to exempt in whole or in part any issuer or class of issuers from the registration, periodic reporting and proxy solicitation provisions and to grant exemptions from the insider reporting and trading provisions of the Act upon such terms and for such period as it deems necessary or appropriate, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise, that such action is not inconsistent with the public interest or the protection of investors.

The applicant is a corporation organized in 1927 in the State of Florida. Until 1960, the applicant had the largest public utility enterprise in Cuba and its operations were confined to that country. On August 7, 1960 the Castro Government in Cuba expropriated, without compensation, all of Cuban Electric's assets in Cuba, leaving to applicant control over certain cash accounts in the United States and certain equipment and property at Guantanamo Naval Base which has been sold. According to the annual report of American & Foreign Power for 1964 (now Ebasco Industries, Inc.) Cuban Electric is unable to pay its U.S. dollar obligations to suppliers or U.S. dollar loans to banks including its loan from the Export-Import Bank of Washington to which the company's investment in Cuba was subordinated. The financial statements of Ebasco Industries, Inc., as of December 31, 1967, show that the company has written off its investment in Cuban Electric. Presently this issuer has approximately $5,232,346 in assets outside Cuba. Applicant's books and records relating to the expropriated assets are in Cuba and unavailable to the company.

Eighty-eight percent of applicant's 3,600,011 outstanding shares of common stock, its only class of equity security, is owned by Ebasco Industries, Inc. As of August 21, 1967, there were 1,697 common stockholders, 221 of whom, holding an aggregate of 293,589 shares, were residents of the United States. For the year ended December 31, 1967, there were a total of 113 transfers involving a transferee or transferor in the United States and an aggregate of 49,295 shares of applicant's common stock.

Cuban Electric does not presently provide any reports to stockholders except a notice of the annual meeting to all stockholders of record. The company has informed the staff that it is preparing a report to stockholders including a statement of assets held outside of Cuba as of December 31, 1967, and a statement of cash receipts and disbursements from March 1, 1960 to December 31, 1967. It has further informed the staff that it is willing to make subsequent annual reports to the stockholders which would be sent with the notice of the company's annual meeting in October, containing statements bringing such information up to date. The company's claim against the Cuban Government for compensation for the expropriation of its Cuban assets is presently under consideration by the Foreign Claims Settlement Commission of the United States. The Cuban Claims Act does not, however, provide funds from which compensation may be paid.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C.

Notice is further given that any interested person may, not later than October 14, 1968, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

By the Commission.

ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-11738; Filed, Sept. 26, 1968; 8:47 a.m.]

[70-4558]

## EASTERN UTILITIES ASSOCIATES ET AL.

### Notice of Filing of Post-Effective Amendment Proposing Issue and Sale of Notes by Subsidiary Companies to Banks

SEPTEMBER 23, 1968.

In the matter of Eastern Utilities Associates, Post Office Box 2333, Boston, Mass. 02107; Brockton Edison Co., 36 Main Street, Brockton, Mass. 02403; Fall River Electric Light Co., 85 North Main Street, Fall River, Mass. 02722; 70-4558.

Notice is hereby given that Brockton Edison Co. ("Brockton") and Fall River Electric Light Co. ("Fall River"), electric utility subsidiary companies of Eastern Utilities Associates ("EUA"), a registered holding company, have filed with this Commission a post-effective amendment to an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a)(1), 7, 9(a), 10, 12(b), (c), and (f), and Rules 42(b)(2), 43(a), 45(b)(1), and 50(a)(2), (3), and (4) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By order dated December 18, 1967 (Holding Company Act Release No. 15919), this Commission granted and permitted to become effective the application-declaration now being amended, in which filing EUA and Brockton were joined by Blackstone Valley Electric Co. ("Blackstone") and Montaup Electric Co. ("Montaup"), which are also electric subsidiary companies of EUA. The order authorized the issue and sale of notes by Blackstone, Brockton, and Montaup to banks and/or to EUA in respective maximum amounts set forth therein. Fall River now seeks authorization for borrowings from banks, and Brockton seeks authorization for further borrowings from banks in addition to the amounts heretofore authorized, during the period beginning October 28, 1967, and ending December 20, 1968, such borrowings to be represented by short-term, unsecured promissory notes, in the maximum aggregate amounts to be outstanding at any one time, of $1,900,000 and $600,000 respectively as shown below:

| | Brockton | Fall River |
|---|---|---|
| The First National Bank of Boston, Mass | $300,000 | $1,000,000 |
| State Street Bank and Trust Co., Boston, Mass | 300,000 | |
| B. M. C. Durfee Trust Co., Fall River, Mass | | 450,000 |
| Fall River Trust Co., Fall River, Mass | | 300,000 |
| Fall River National Bank, Fall River, Mass | | 150,000 |
| Total | 600,000 | 1,900,000 |

The above notes will be dated as of the date of issuance, will bear interest at not in excess of the prime rate on the date of issuance (presently 6½ percent per annum) and will be prepayable in whole or in part without penalty. Notes issued on and after October 1, 1968, will mature on December 20, 1968. The proceeds from the sale of the proposed notes will be used in part by the respective companies to finance construction expenditures for 1968 and for other corporate purposes.

In the event of any permanent financing by Brockton or Fall River, the net cash proceeds therefrom will be applied to the payment of its short-term note indebtedness and the maximum amount of short-term note indebtedness to be outstanding at any one time, as proposed herein, will be reduced by the amount of the proceeds of such permanent financing.

The post-effective amendment represents that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions; and that additional fees and expenses to be incurred in connection with the proposed transactions are estimated at $265.

Notice is further given that any interested person may, not later than October 17, 1968, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the post-effective amendment, as filed or as it may be amended, may be granted and permitted to become effective, as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

ORVAL L. DUBOIS,
*Secretary.*

[F.R. Doc. 68-11739; Filed, Sept. 26, 1968; 8:48 a.m.]

[File No. 1-4371]

## WESTEC CORP.

### Order Suspending Trading

SEPTEMBER 23, 1968.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 24, 1968 through October 3, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F.R. Doc. 68-11740; Filed, Sept. 26, 1968; 8:48 a.m.]

# SMALL BUSINESS ADMINISTRATION

## WEST CENTRAL CAPITAL CORP.

### Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that 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 West Central Capital Corp. (West Central) Eighth and Meredith Streets, Post Office Box 412, Dumas, Tex. 79029, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), License No. 10/10-0118. A branch office is maintained in the First State Bank Building, 402 Oak Street, Room 408, Abilene, Tex. 79600.

West Central was licensed on August 27, 1962, and as of March 31, 1968, had paid-in capital and paid-in surplus from private sources amounting to $152,853. It has 76,350 shares of issued and outstanding common stock. Mr. Howard W. Jacob, President and director, proposes to acquire 41,229 shares of the common stock from Mr. Elbert E. Hall, Vice President and director, which will give Mr. Jacob one hundred percent (100%) stock ownership. The proposed transaction is subject to and contingent upon approval of SBA.

It is contemplated that the officers and directors of West Central will continue to serve in their present capacities.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owner, and the probability of successful operations of the company under his control and management (including adequate profitability and financial soundness) in accordance with the Act and Regulations.

Notice is further given that any interested person may not later than 10 days from the date of publication of this notice, submit to SBA, 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 transferee in a newspaper of general circulation in Dumas, Tex., and Abilene, Tex.

For SBA (pursuant to delegated authority).

Dated: September 18, 1968.

GLENN R. BROWN,
*Associate Administrator for Investment.*

[F.R. Doc. 68-11719; Filed, Sept. 26, 1968; 8:46 a.m.]

# INTERSTATE COMMERCE COMMISSION

## FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 24, 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. 41449—*Superphosphate from Florida points to Kolbe, Ill.* Filed by O. W. South, Jr., agent (No. A6052), for interested rail carriers. Rates on superphosphate, not defluorinated superphosphate, nor feed grade superphosphate, in bulk, in carloads, subject to volume minimum of not less than 500,000 pounds per shipment, from specified points in Florida, to Kolbe, Ill.

Grounds for relief—Rail-barge competition and market competition.

Tariff—Supplement 59 to Southern Freight Association, agent, tariff ICC S–700.

FSA No. 41450—*Sand from specified points in Arkansas, Missouri, and Oklahoma to Vineland, N.J.* Filed by Southwestern Freight Bureau, agent (No. B–9109), for interested rail carriers. Rates on sand, in carloads, as described in the application, from specified points in Arkansas, Missouri, and Oklahoma, to Vineland, N.J.

Grounds for relief—Short-line distance formula and grouping.

Tariff—Supplement 16 to Southwestern Freight Bureau, agent, tariff ICC 4797.

FSA No. 41451—*Barley from points in Montana.* Filed by North Pacific Coast Freight Bureau, agent (No. 68–1), for and on behalf of the Great Northern Railway. Rates on barley, feed grade, in carloads, from specified points in Montana, to Wenatchee and Quincy, Wash.

Grounds for relief—Truck competition and rate relationship.

Tariff—Supplement 32 to North Pacific Coast Freight Bureau, agent, tariff ICC 1117.

By the Commission.

[SEAL] N. NEIL GARSON, *Secretary.*

[F.R. Doc. 68–11745; Filed, Sept. 26, 1968; 8:48 a.m.]

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[Notice 217]

## MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 24, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–70636. By order of September 18, 1968, the Transfer Board approved the transfer to C. B. Motor Freight Co., a corporation, Hobbs, N. Mex., of the operating rights in certificate No. MC–100542 (Sub-No. 5) issued August 30, 1967, to Randall R. Sain, doing business as C. B. Truck Line, El Paso, Tex., authorizing the transportation, over irregular routes, of general commodities, except those of unusual value, classes A and B explosives, and commodities in bulk, between points in Lea and Eddy Counties, N. Mex. (except to or from a potash mine located approximately 16 miles east of Carlsbad, and between Carlsbad and Hobbs). Jerry R. Murphy, 708 LaVeta Drive NE., Albuquerque, N. Mex. 87108, attorney for applicants.

No. MC–FC–70655. By order of September 16, 1968, the Transfer Board, on reconsideration, approved the transfer to Yaste Transportation Co., Inc., Hoquiam, Wash., of the operating rights in certificates Nos. MC–124978 and MC–124978 (Sub-No. 3) issued April 16, 1964, and August 25, 1967, respectively, to Frank O. Yaste, Hoquiam, Wash., authorizing the transportation of shakes and shingles, between points in Clallam, Jefferson, and Grays Harbor Counties, Wash., restricted to shipments having a subsequent movement by rail, and from points in Clallam, Jefferson, and Grays Harbor Counties, Wash., to Seattle, Tacoma, Everett, Bellingham, Olympia, Port Angeles, Port Townsend, Hoquiam, and Aberdeen, Wash., restricted to traffic having a subsequent movement by water. Wilbur J. Lawrence, Lane, Powell, Moss & Miller, 1700 Washington Building, Seattle, Wash. 98101, attorney for applicants.

No. MC–FC–70759. By order of September 18, 1968, the Transfer Board approved the transfer to Stickley's Garage, Inc., Middletown, Va., of the operating rights in certificate No. MC–128662 issued May 12, 1967, to Virgil I. Stickley, doing business as Stickley's Garage, Middletown, Va., authorizing the transportation of: *Wrecked, disabled, inoperative, repossessed, and stolen vehicles, and replacements, accessories, and parts thereof* (except mobile homes or house trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only, between points in Frederick County, Va., on the one hand, and, on the other, points in Virginia, West Virginia, Ohio, Pennsylvania, Maryland, New York, New Jersey, and the District of Columbia. Eston H. Alt, Post Office Box 81, Winchester, Va. 22601, practitioner for applicants.

No. MC–FC–70773. By order of September 27, 1968, the Transfer Board approved the transfer to Peter DiGiovanni, doing business as Guaranteed Motor Towing Service, New Brunswick, N.J., of the operating rights in certificate No. MC–119459 issued August 19, 1960, to Frank DiGiovanni and Josephine DiGiovanni, a partnership, doing business as Guaranteed Motor Sales and Service, New Brunswick, N.J., authorizing the transportation of disabled trucks, disabled tractors, and disabled buses, in drive-away service, or in truck-away service, using wrecker vehicles, between points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, except that no service may be performed from or to points in Cuyahoga, Summit, Medina, and Portage Counties, Ohio. Herman B. Weckstein, 1060 Broad Street, Newark, N.J. 07102, attorney for applicants.

No. MC–FC–70775. By order of September 16, 1968, the Transfer Board approved the transfer to John N. Apgar, Sr., Sterling E. Apgar, and Dorothy E. Anderson, a partnership, doing business as Apgar Bros., Bound Brook, N.J., of the operating rights in permits Nos. MC–33322 and MC–33322 (Sub-No. 3) issued May 4, 1950, and December 7, 1951, respectively, to Sterling E. Apgar, John N. Apgar, Sr., Russell I. Apgar and Dorothy E. Anderson, a partnership, doing business as Apgar Bros., Bound Brook, N.J., authorizing the transportation of machinery, including heavy machinery, building and contractor's material, supplies, and equipment, tile, pumps, railroad ties, magnesia products, printing presses, and accessories thereto, pipe, metals and castings, and numerous other specified commodities, between points as specified in New Jersey, Pennsylvania, Philadelphia, Maryland, and Massachusetts, on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Maryland, Delaware, Connecticut, Rhode Island, Massachusetts, and the District of Columbia; and chemicals, in bulk, in tank vehicles, from Bound Brook, N.J., and Warners, N.J., to points in New York, Pennsylvania, Connecticut, and Massachusetts; from Carteret, N.J., to points in 7 States, and from points in Pennsylvania to Bound Brook and Warners, N.J., Martin Sterenbuch, Todd, Dillon & Sullivan, 1819 H Street NW., Washington, D.C. 20006, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68–11746; Filed, Sept. 26, 1968; 8:48 a.m.]

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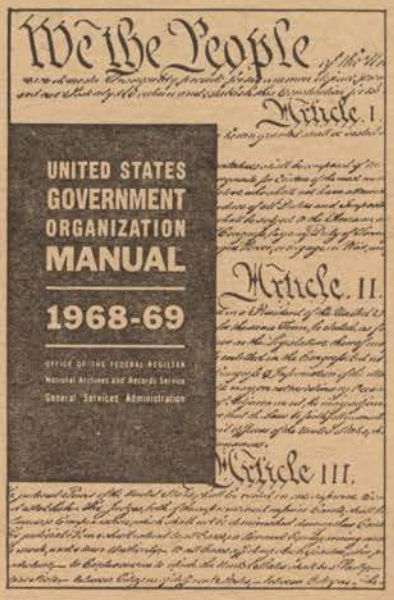


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