FEDERAL REGISTER

VOLUME 34 • NUMBER 12

Friday, January 17, 1969 • Washington, D.C.

Pages 695–796

PART I

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FEDERAL REGISTER

Area Code 202 Phone 962–8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1969, and specifies how they are affected.

Rules and Regulations

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 413—TEXAS CITRUS CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the regulations set forth in this part are hereby issued to be in force and effect with respect to Texas citrus crop insurance contracts for the 1969 and succeeding crop years until amended or superseded.

Sec.

AUTHORITY: The provisions of this subpart issued under secs. 506, 516, 52 Stat. 73, as amended; 77, as amended; 7 U.S.C. 1506, 1516.

§ 413.20 Availability of Texas citrus crop insurance.

Citrus crop insurance shall be offered for the 1969 and succeeding crop years under the provisions of §§ 413.20 through 413.25 in counties in Texas within limits prescribed by and in accordance with the provision of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from a list of counties approved by the Board of Directors of the Corporation for citrus crop insurance. The counties designated by the Manager shall be published by appendix to this section.

§ 413.21 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates and the amounts of insurance per acre which shall be shown on the county actuarial table on file in the office for the county. Such premium rates and amounts of insurance may be changed from year to year.

(b) The following shall apply to the transfer of any premium reduction earned under the provisions of section 7 of the Application and Policy set forth in § 413.25 if the insured is a partnership, corporation, or any other joint enterprise and there is no break in continuity of participation. Upon dissolution of such enterprise, such premium reduction may be credited to the contract of any member or stockholder thereof if the Corporation determines such person is operating only land formerly operated by the dissolved enterprise. Upon formation of a joint enterprise, the smallest premium reduction (zero if none), which the Corporation determines would have been applicable to any insurable acreage brought into the enterprise if the enterprise had not been formed, may be credited to the joint enterprise contract.

§ 413.22 Application for insurance.

Application for insurance may be submitted, as provided in § 413.25 at the office for the county for the Corporation. The Corporation reserves the right to discontinue the taking of applications in any county upon its determination that the insurance risk involved is excessive or limit the amount of insurance prior to the closing date for the filing of applications. Such closing date shall be the August 15 of the crop year. The Corporation further reserves the right to reject any application or to exclude any definitely identified acreage for any crop year of the contract if upon inspection it deems the risk on such acreage is excessive. If any such acreage is to be excluded, the insured shall be notified of such exclusion before insurance attaches for the crop year for which the acreage is to be excluded. The Manager of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications in any county, by publishing a notice in the FEDERAL REGISTER, upon his determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period the Corporation will immediately discontinue the acceptance of applications.

§ 413.23 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at the county courthouse a listing of the indemnities paid in the county.

§ 413.24 Creditors.

An interest of a person other than the insured in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or any involuntary transfer shall not entitle the holder of the interest to any benefit under the contract other than as provided in the Application and Policy set forth in § 413.25.

§ 413.25 The application and policy.

The provisions of the Application and Policy for Texas Citrus Crop Insurance for the 1969 and Succeeding Crop Years are as follows:

Application and Policy.
Form FCI–812–Texas Citrus.

U.S. DEPARTMENT OF AGRICULTURE
FEDERAL CROP INSURANCE CORPORATION

Application and Policy for Texas Citrus Crop Insurance

(For 19__ and Succeeding Crop Years)

(Name of Insured) (Policy Number)

(Address of Insured) (Zip Code) (County)

1. The undersigned applicant (herein also called the "insured"), subject to the applicable provisions of the regulations of the Federal Crop Insurance Corporation (hereinafter called the "Corporation"), hereby applies to the Corporation for insurance on his interest as a producer in citrus crops of the insurable types designated below (hereinafter called "the insured crop") located in the above identified county (hereinafter called "the county"). The applicant applies for the amount of insurance for the applicable type shown below which shall be an amount shown on the county actuarial table (hereinafter called the "actuarial table"). The amounts of insurance available each crop year and prescribed premium rates for each crop year are shown by types on the actuarial table from year to year. The insured may with the consent of the Corporation change the amount of insurance which was in effect for a prior crop year and elect a new amount of insurance per acre by notifying the office for the county in writing prior to the date insurance attaches for the crop year for which the change is to become effective. The amount of insurance per acre in effect for a crop year shall be the amount of insurance most recently elected by the insured and shown on a form prescribed for such purpose but the amount of insurance shall not exceed the maximum dollar amount per acre shown on the actuarial table for such crop year. The insured hereby elects the respective amounts of insurance entered below for the type of citrus on which insurance is applied for:

Type	Crop(s)	Amount per acre (dollars)
I	Early and midseason oranges	$
II	Late oranges (including temples)	
III	Grapefruit	

This application, when executed by a person as an individual, shall not cover his interest in a crop produced by a partnership or other entity.

2. *Causes of loss insured against.* The insurance provided is against unavoidable loss resulting from freeze, hurricane, or tornado occurring within the insurance period. No insurance is provided against loss or damage to blossoms or trees.

3. *Insured crop.* (a) Application for insurance may be made with respect to all types of citrus or with respect to any one or more types of citrus, as defined in section 22 hereof, produced by the insured on trees that have reached at least the fifth growing season, after being set out, except that the insured may, subject to approval of the Corporation, elect to insure or exclude from insurance for any crop year any definitely described and designated insurable acreage

having a potential of less than 4 tons of oranges and 5 tons of grapefruit per acre. Acreage so excluded with approval of the Corporation shall be disregarded for all purposes of this contract for the crop year involved. If the insured fails to elect and designate any defined acreage, the Corporation will disregard such acreage if the minimum potential is not produced. However, if the production meets the minimum, the Corporation shall determine the percent of damage on all of the insurable acreage for the unit but will not permit the percent of damage for the unit to be increased by reason of the use of the such undesignated acreage. The potential to be used to determine the percent of damage under section 14 shall never be less than 4 tons of oranges and 5 tons of grapefruit per acre. Except as otherwise provided herein, the insured acreage for each crop year shall be all that acreage in the county of the type(s) of citrus for which the insured has applied for insurance, which is shown as insurable acreage on the actuarial table and not excluded otherwise because of risk, and in which the insured has an interest on the date insurance attaches.

(b) Insurance for each crop year of the contract shall cover only citrus fruit which can be expected to mature in the normal maturity period for the variety for such crop year.

4. *Responsibility of the insured to report acreage and interest.* The insured at the time of filing his application shall also file on a form prescribed by the Corporation a report of all the acreage of the insured crop in the county in which he has an interest and show his interest therein. Such report shall include a designation of all the acreage of citrus which is uninsurable or any acreage not insured under the provisions of the preceding section. This report shall be revised for any crop year before insurance attaches if the acreage to be insured, or interest therein, has changed and the latest report filed shall be considered as the basis for continuation of insurance from year to year, subject to revision as provided herein. The Corporation reserves the right to determine the insured acreage and the insured's interest therein. The acreage and interest insured shall be the acreage and interest reported by the insured or as determined by the Corporation.

5. *The contract.* Upon acceptance of this application by the Corporation, the contract shall be in effect for the crop year specified above and shall continue for each succeeding crop year until canceled or terminated in accordance with the applicable provisions of the contract. This application and policy, and amendments thereto, if any, and the actuarial table for each crop year shall constitute the contract for citrus insurance. Any changes made in the contract shall not affect the continuity from year to year.

6. *Insurance period.* For each crop year insurance attaches on June 1 of the crop year, unless the application is accepted by the Corporation after that date in which event insurance shall attach in the first crop year on the date of acceptance, but in no event earlier than the 10th day after the date the application is submitted to the office for the county, and as to any portion of the citrus crop shall cease upon harvest but in no event shall the insurance remain in effect later than May 31 of the calendar year following the calendar year in which the insurance period begins.

7. *Annual premium.* (a) The annual premium shall be considered as earned on the date insurance attaches and shall be determined by multiplying the applicable amount of insurance for the insured acreage on the insurance unit (hereinafter called "unit") by the applicable premium rate and multiplying the product thereof by the insured's interest at the time insurance attaches and, where applicable, applying the discount herein provided.

(b) The total annual premium for the insured crop on all units shall be reduced as follows for consecutive years of insurance, without a loss for which an indemnity was paid on any unit, immediately preceding the crop year for which the reduction is applicable (eliminating any year in which a premium was not earned):

Percent premium reduction	*Consecutive years with no loss*
5 percent after	1 year.
5 percent after	2 years.
10 percent after	3 years.
10 percent after	4 years.
15 percent after	5 years.
20 percent after	6 years.
25 percent after	7 years or more.

If any insured has a loss on a crop for which an indemnity is paid, the number of such consecutive years of insurance on such crop without a loss for which an indemnity was paid shall be reduced by 3 years, except, that, where the insured has 7 or more such years, a reduction to 4 shall be made and where the insured has 3 or less such years, a reduction to zero shall be made.

8. *Premium note.* In consideration hereof, the insured promises to pay to the order of the Federal Crop Insurance Corporation each crop year of the contract the annual premium and further agrees that as to any amount thereof not paid by the May 31 of the crop year in which earned, it shall be increased by 10 percent. It is further agreed that any amount due the Corporation by the insured may be deducted from any indemnity payable to the insured and when not prohibited by law, from any loan or payment otherwise due the insured under any program administered by the U.S. Department of Agriculture.

_____ _____, 19__
(Signature of applicant) (Date)

_____
(Witness to signature)

9. Recommended for acceptance by:

_____ _____, 19__
(Grove Inspector) (Date)

_____
(Corporation Representative)

_____ _____
(Address of Office for County) (Phone)

10. Location of Grove(s) or Headquarters and phone

_____

11. *Life of contract.* The contract is noncancelable for the first crop year and shall continue in effect for each succeeding crop year until either the insured or Corporation cancels the contract by giving written notice to the other by May 31 immediately preceding the beginning of the crop year for which the cancellation is to become effective. If, however, the Corporation limits the amount of insurance, or any acreage is excluded from insurance under the contract by the Corporation because of the risk involved, after the May 15 immediately preceding the beginning of the crop year for which such limitation or exclusion is to become effective, the insured shall have the right to cancel the contract within 15 days after notice thereof is mailed to the insured by the Corporation. If the premium is not paid by the May 31 of the crop year in which the premium was earned, the contract shall terminate for nonpayment of premium effective beginning with the next crop year.

12. *Contract changes.* After the first crop year the Corporation reserves the right to amend or change the terms of this contract from year to year. Any such amendment or change shall be mailed to the insured or made available at the office for the county by the May 15 immediately preceding the beginning of the crop year for which such amendment or change is to become effective. Acceptance of such amendment or change will be conclusive in the absence of any notice from the insured to cancel the contract as provided in section 11 hereof.

13. *Notice of damage or loss.* (a) It shall be a condition precedent to payment of any indemnity on any unit hereunder that the insured report in writing each damage to the insured crop from an insured cause to the office for the county immediately after such damage becomes apparent, giving the date of such damage. If not so reported within 7 days, the Corporation reserves the right to reject any claim arising out of such damage on the unit if it determines that it has been prejudiced by such failure to report or by failure to give notice as required in subsection (b) of this section.

(b) If damage occurs within the 7-day period before the beginning of harvest, or during harvest, and a loss is to be claimed, written notice shall be given immediately to the office for the county.

14. *Amount of loss and proof of loss.* (a) Any claim for loss on any unit shall be submitted to the Corporation on a form prescribed by the Corporation within 30 days after the amount of loss has been determined by the Corporation.

(b) Losses shall be adjusted separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of citrus on the unit by the applicable amount of insurance per acre, (2) multiplying the result thus obtained by the average percent of damage (determined in accordance with subsections (c), (d), and (e) of this section) in excess of 10 percent, and (3) multiplying the result by the insured interest.

(c) Subject to the provisions of subsection (d) of this section, the average percent of damage to the insured crop on any unit shall be the ratio of the production of the crop lost from an insured cause to the production which would have been produced (herein called the "potential"). The potential shall not be less than 4 tons of oranges and 5 tons of grapefruit per acre, and shall include citrus which (1) was picked before the insured damage occurred, (2) remained on the trees after the damage occurred, (3) was lost from an insured cause, and (4) any other citrus covered by insurance not included in items (1) through (3), including citrus lost from causes not insured against other than normal dropping but not including citrus lost before insurance attached. Citrus lost due to hurricane or tornado shall be the amount of fruit blown from the trees or which fall from the trees as a result of damage by hurricane or tornado and which are not picked up from the ground and marketed.

(d) Citrus lost due to freeze shall be determined as follows: (1) Fruit which falls to the ground due to freeze damage which is not picked up and marketed shall be considered totally lost. (2) Fruit partially damaged by freeze will be determined by the Corporation by sampling representative fruits by a cut method or any other method which establishes the amount of juice lost from such cause. If the Corporation determines there is less than 16 percent juice loss in a fruit, the fruit shall be considered undamaged. If the Corporation determines there is as much as 16 percent but less than 50 percent of the juice in an individual fruit lost due to freeze, it shall be considered that the fruit is 50 percent damaged. If the Corporation determines that 50 percent or more of the juice in an individual fruit has been

lost due to freeze, it shall be considered totally lost. *Provided*, That any citrus harvested within 7 days after freeze damage occurs will not be considered damaged: *Provided, further*, That any fruit harvested prior to inspection by the Corporation shall be considered as fruit not damaged. For the purposes hereof, a fruit shall be deemed to have lost at least 16 percent of its juice if all segments are dry as shown on a transverse cut across the axis of the stem-styler ends when the cut is made one-fourth the distance from the stem end toward the styler end, or the equivalent of this amount by volume when occurring in other portions of the fruit.

(c) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within 1 year after the date notice of denial of the claim is mailed to and received by the insured.

15. *Payment of indemnity.* (a) Any indemnity will be payable within 30 days after a claim for loss is approved by the Corporation: *Provided*, That in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity.

(b) If the insured is an entity other than an individual and is dissolved or is an individual who dies or is judicially declared incompetent before insurance attaches in any crop year, the contract shall terminate as of the date of dissolution, death, or judicial declaration, but if such an event occurs after insurance attaches in any crop year the contract shall terminate at the end of such crop year and any indemnity payable shall be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(c) For the purposes of subsection (b) hereof, death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the parties shall terminate the contract.

16. *Insured interest.* For the purpose of determining the amount of indemnity, the interest insured shall not exceed the interest of the insured at the time of damage, as determined by the Corporation.

17. *Abandonment of crop.* There shall be no abandonment of the insured crop or portion thereof to the Corporation.

18. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right or remedy including the right to collect any unpaid premiums if at any time, either before or after any loss, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which any such act or omission occurred.

19. *Collateral assignment—Transfer of interest.* The right to an indemnity in any crop year may be assigned by the insured only as security upon prior approval of the Corporation. If the insured transfers his interest in the insured crop in any crop year he may, upon prior approval of the Corporation, transfer his right to an indemnity for such crop year with respect to the transferred interest in the insured crop. Any assignment or transfer shall be made on assignment or transfer forms prescribed by the Corporation and shall be subject to all the terms set forth thereon and to the terms hereof.

20. *Subrogation.* The insured (including his assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made and shall execute all papers required and take appropriate action to secure such rights.

21. *Forms.* Copies of forms referred to in the contract are available at the office for the county.

22. *Meaning of terms.* For purposes of insurance on citrus the terms:

(a) "County actuarial table" means the actuarial forms and related material (including the crop insurance maps where applicable) which are approved by the Corporation, which are on file for public inspection in the office for the county, and which show the applicable amounts of insurance, premium rates, and related information with respect to citrus crop insurance for the crop year in the county.

(b) "Office for the county" means the Corporation's office serving the county shown in this application and policy, or such office as may be designated by the Corporation from time to time, and may serve more than one county.

(c) "County" means the area shown on the actuarial table which may include insurable acreage located in a local producing area bordering on the county.

(d) "Crop year" means the period beginning June 1 and extending through May 31 of the following calendar year and shall be designated by reference to the calendar year in which the insurance period begins.

(e) "Harvest" means any severance of citrus fruit from the tree either by pulling or picking, or picking the marketable fruit from the ground.

(f) "Insurance unit" means all insurable acreage in the county of any one of the three citrus types (see (g) below) (1) in which type of citrus the insured has 100 percent interest on the date insurance attaches for the crop year and which is located on contiguous land under the same ownership, or (2) in which type of citrus two or more persons have 100 percent interest on the date insurance attaches for the crop year and which type is located on contiguous land under the same ownership, excluding any other acreage of such type of citrus in which such persons do not have 100 percent interest in such citrus on such date. Land rented for cash or for a fixed commodity payment shall be considered as owned by the lessee. Contiguous land shall include only land that is touching at any point except that land that is separated only by a public or private way shall be considered contiguous.

(g) "Types of citrus" means any of the three types of fruit as follows: Type (I), Early and midseason oranges; type (II), Late oranges (including temples); and type (III), Grapefruit.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Adopted by the Board of Directors on January 13, 1969.

[SEAL] EARLL H. NIKKEL,
Secretary, Federal Crop Insurance Corporation.

Approved on January 13, 1969.

John A. Schnittker,
Under Secretary.

[F.R. Doc. 69-612; Filed, Jan. 16, 1969; 8:50 a.m.]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 730—RICE

Subpart—1969–70 Marketing Year

STATE AND COUNTY RESERVE ACREAGES AND COUNTY ACREAGE ALLOTMENTS FOR 1969 CROP

Sec.
730.1505 Basis and purpose.
730.1506 State reserve acreages.
730.1507 County acreage allotments and county reserve acreages.

AUTHORITY: Sections 730.1505 to 730.1507 issued under secs. 301, 353, 375, 52 Stat. 38, 61, as amended, 66; 7 U.S.C. 1301, 1353, 1375.

§ 730.1505 Basis and purpose.

(a) The State and county reserve acreages and county acreage allotments for 1969 crop rice contained in §§ 730.1506 and 730.1507 have been determined pursuant to and in conformity with the provisions of section 353 of the Agricultural Adjustment Act of 1938, as amended. Said sections are issued to announce: (1) State reserve acreages for new farms or new producers in each of the applicable rice-producing States; (2) State reserve acreages for appeals and corrections, missed farms, and adjustments in factored allotments in the producer States of Arizona, California, Florida, South Carolina, Tennessee, Texas, and the "producer administrative area" in Louisiana; (3) the allotment in the rice productivity pool for each rice-producing State which shall not be allocated to farms; and (4) county acreage allotments and county reserve acreages for appeals and corrections, missed farms, and adjustments in factored allotments in the farm States of Arkansas, Illinois, Mississippi, Missouri, North Carolina, Oklahoma, and the "farm administrative area" in Louisiana. Since farm acreage allotments for 1969 crop rice in the producer States, including the "producer administrative area" of Louisiana, will be established pursuant to the act primarily on the basis of past production of rice by the producer on the farm in lieu of past production of rice on the farm, the 1969 State acreage allotments of rice for those States will be apportioned directly to farms, and county acreage allotments and county reserve acreages for appeals and corrections, missed farms, and adjustment in factored allotments will not be determined for such States.

(b) The determinations made in §§ 730.1506 and 730.1507 indicate the amount of State reserve acreages for new farms or new producers in each of the applicable rice-producing States, the amount of State reserve acreages for appeals and corrections, missed farms, and adjustments in factored allotments in the "producer States", the amount of allotment acreage in the productivity

pool for each of the rice-producing States, and the amount of county acreage allotments and county reserve acreages for appeals and corrections, missed farms, and adjustments in factored allotments in the "farm States".

(c) The State and county reserve acreages in §§ 730.1506 and 730.1507 were established on the basis of the needs therefore as recommended by the State and county committees.

(d) The county acreage allotments in § 730.1507 were established by apportioning the State acreage allotment, less (1) the State acreage reserve for new farms, and (2) the allotment attributable to history pooled as a result of productivity adjustments under paragraph (d) of section 730.1528 of the regulations for determination of acreage allotments for 1964 and subsequent crops of rice, among the counties in the State in the same proportion that they shared in the total acreage allotted in 1956, as provided by section 353(c)(1) and section 353(c)(6) of the Agricultural Adjustment Act of 1938, as amended, except that in the "farm administrative area" of Louisiana, prior to the apportionment among counties, 22 acres were reserved from the allotment for such administrative area pursuant to section 353(c)(1) of the act and used to adjust upward the county allotment for Rapides Parish on account of an upward trend in acreage in said parish (i.e., county).

(e) Prior to the determination of State and county reserve acreages and county acreage allotments for 1969 crop rice, public notice (3 F.R. 15555) was given in accordance with 5 U.S.C. 553. Data, views, and recommendations were submitted pursuant to such notice. They have been considered to the extent permitted by law.

(f) The determinations made in §§ 730.1506 and 730.1507 have been made on the basis of the latest available statistics of the Federal Government as required by section 301(c) of the Agricultural Adjustment Act of 1938, as amended.

(g) Pursuant to the Agricultural Adjustment Act of 1938, as amended, marketing quotas on the 1969 crop of rice have been proclaimed and the period for the referendum to be held to determine whether farmers are in favor of or opposed to such quotas has been set for January 20 to 24, 1969, each inclusive (34 F.R. 156). The act requires that, insofar as practicable, notices of farm acreage allotments, which are based on State and county allotments and reserves, be mailed to producers in time to be received prior to the referendum. Since the referendum will be held during the period January 20 to 24, 1969, it is necessary to waive the 30-day effective date provision of 5 U.S.C. 553 at applied to the determinations herein. Accordingly, this document shall become effective upon filing with the Director, Office of the Federal Register.

§ 730.1506 State reserve acreages.

The following table sets forth the State reserve acreages for new farms and for appeals, corrections, missed farms, and adjustments in factored allotments in producer States. It also sets forth the allotment in the State productivity pool which shall not be allocated to producers, counties, and farms.

State	State reserve acreage for new farms or new producers	State reserve acreages for appeals, etc. in producer States [1]	State productivity pool
Arizona	9	0	
Arkansas	0		247
California	0	50	
Florida	38	63	
Illinois	0		
Louisiana:			
Farm administrative area	0		51
Producer administrative area	0	0	
Mississippi	0		20
Missouri	0		
North Carolina	0		
Oklahoma	0		
South Carolina	15	0	
Tennessee	0	0	
Texas	0	50	

[1] For appeals and corrections, missed producers, and adjustments in factored allotments in producer States and the "producer administrative area" in Louisiana.

§ 730.1507 County acreage allotments and county reserve acreages.

The following table sets forth the county allotments and the county reserve acreages:

ARKANSAS

County	County acreage allotment	County reserve acreages [1]
Arkansas	90,898	3.0
Ashley	7,587	2.0
Chicot	12,063	0
Clark	663	0
Clay	9,502	0
Conway	13	0
Craighead	20,804	0
Crittenden	8,244	0
Cross	42,137	1.0
Dallas	85	0
Desha	16,703	1.0
Drew	5,330	0
Faulkner	549	0
Grant	41	41.0
Greene	6,370	1.0
Hot Spring	506	0
Independence	1,033	0.1
Jackson	24,500	0.6
Jefferson	20,423	0
Lafayette	1,048	0
Lawrence	10,115	0.8
Lee	10,201	3.0
Lincoln	11,314	0
Little River	487	0
Lonoke	46,588	2.0
Miller	807	0
Mississippi	1,708	0
Monroe	17,346	0
Perry	1,188	0
Phillips	6,114	1.0
Poinsett	45,801	0
Prairie	47,885	0
Pulaski	2,639	0
Randolph	2,775	0
St. Francis	21,907	2.0
White	1,372	0
Woodruff	24,363	3.0
Productivity Pool	247	
State total	521,566	61.5

ILLINOIS

County	County acreage allotment	County reserve acreages [1]
Adams	26	0
State total	26	0

LOUISIANA, FARM ADMINISTRATIVE AREA

Acadia	110,749	2,337
Allen	28,999	551
Avoyelles	3,433	171
Beauregard	5,547	0
Bossier	78	0
Calcasieu	79,898	8
Cameron	14,898	1
Evangeline	53,645	50
Grant	0	0
Iberia	7,654	2
Jefferson Davis	115,420	1,902
Lafayette	11,815	10
Rapides	902	0
St. Landry	20,405	5
St. Martin	4,923	12
St. Mary	3,887	194
Vermilion	136,407	50
Productivity Pool	51	
State Reserve	22	
State total, Farm Administrative Area	598,733	5,333

MISSISSIPPI

Bolivar	25,892	0
Coahoma	1,976	0
De Soto	1,626	0
Hancock	218	0
Humphreys	2,512	0
Issaquena	127	0
Leflore	4,425	0
Panola	94	0
Quitman	1,482	0
Sharkey	1,252	0
Sunflower	5,375	0
Tallahatchie	606	0
Tate	293	0
Tunica	3,898	0
Washington	11,303	0
Productivity Pool	20	
State total	61,009	0

MISSOURI

Butler	1,878	0
Holt	3	0
Lewis	10	0
Lincoln	44	0
Marion	403	0
Mississippi	115	0
New Madrid	145	0
Pemiscot	775	0
Ripley	600	0
St. Charles	47	0
Scott	316	0
Stoddard	1,883	0
State total	6,219	0

NORTH CAROLINA

Brunswick	12	0
Hyde	38	0
State total	50	0

OKLAHOMA

McCurtain	195	0
State total	195	0

[1] County reserve acreage for appeals and corrections, missed farms, and adjustments.

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

Signed at Washington, D.C., on January 13, 1969.

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

[F.R. Doc. 69-620; Filed, Jan. 14, 1969; 2:56 p.m.]

See footnotes at end of table.

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

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Changes in Nomination of Plum Commodity Committee Members

Notice was published in the FEDERAL REGISTER issue of December 11, 1968 (33 F.R. 18381), that the Department was giving consideration to a proposed amendment of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 917.100 et seq.) currently in effect under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in 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 proposal set forth in the aforesaid notice which was submitted by the Control Committee (established pursuant to said marketing agreement and order as the agency to administer the provisions thereof), it is hereby found that the amendment, as hereinafter set forth, of said rules and regulations is in accordance with the provisions of said amended marketing agreement and order and will tend to effectuate the declared purposes of the Agricultural Marketing Agreement Act of 1937, as amended. Such amendment is hereby approved; and said rules and regulations are amended as follows:

§ 917.116 **Changes in nomination of Plum Commodity Committee members.**

Nominations for membership on the Plum Commodity Committee shall be made by the growers of plums in the respective representation areas as follows:

(a) Kern District, Tehachapi District, South Coast District, and Southern California District one nominee.

(b) Tulare District two nominees.

(c) Fresno District six nominees.

(d) Placer-Colfax District one nominee.

(e) North Sacramento Valley District and Central Sacramento Valley District one nominee.

(f) All of the production area not included in the Kern District, Tehachapi District, South Coast District, Southern California District, Tulare District, Fresno District, Placer-Colfax District, North Sacramento Valley District, and Central Sacramento Valley District one nominee.

Dated, January 14, 1969, to become effective 30 days after publication in the FEDERAL REGISTER.

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

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

[F.R. Doc. 69-661; Filed, Jan. 16, 1969; 8:50 a.m.]

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Transfer or Assignment of Base Quantity

Notice was published in the FEDERAL REGISTER issue of December 20, 1968 (33 F.R. 19019), that the Department was giving consideration to a proposed rule and regulation pursuant to the provisions of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929; 33 F.R. 11639), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded 15 days for interested persons to submit written data, views, or arguments in connection with said proposal. None were received.

After consideration of all relevant matters presented, including that in the notice, and information submitted by the committee, and other available information, it is hereby found that the rule and regulation, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act and of this part. The rule and regulation recites the terms under which a grower may transfer or assign his base quantity to secure an indebtedness. Therefore, establishment of the said rule and regulation is hereby approved as follows:

§ 929.150 **Transfer or assignment of base quantity.**

(a) If indebtedness is incurred with regard to the acreage to which the cranberries are attributed on which the base quantity was established, the base holder may transfer or assign the base quantity solely as security for the loan, and during the existence of such indebtedness no further transfer or assignment of the base quantity by the base holder shall be recognized unless the lender agrees thereto: *Provided*, That a copy of such loan agreement shall be filed by any party thereto with the committee before any right expressed therein with regard to the base quantity shall be recognized under this paragraph.

(b) This regulation shall not in any way be construed to affect the right of the Secretary of Agriculture to amend, modify or terminate this regulation, or the marketing order under which it is issued as provided by law.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give further notice and good cause exists for making the rule and regulation effective at the time hereinafter set forth and for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) there are loan applications currently pending which may be affected by this rule and regulation; (2) the rule and regulation will be beneficial to the cranberry industry; (3) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto; and (4) no useful purpose will be served to postpone the effective date beyond that hereinafter specified.

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

Dated, January 14, 1969, to become effective upon publication in the FEDERAL REGISTER.

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

[F.R. Doc. 69-616; Filed, Jan. 16, 1969; 8:47 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Miscellaneous Amendments

Under the provisions of section 170 of the Atomic Energy Act of 1954, as amended, the holder of a license for a production or utilization facility is required to have and maintain financial protection to cover public liability claims, and the Atomic Energy Commission is required to indemnify the licensee and other persons indemnified against public liability claims in excess of the amount of financial protection required. Subsection 170b requires that for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100 electrical megawatts or more, the amount of financial protection required shall be the maximum amount available from private sources. For other licensees, the Commission may require lesser amounts of financial protection. Financial protection may be in the form of private insurance, private contractual indemnities, self-insurance or other proof of financial responsibility, or a combination of such measures. Nonprofit educational institutions and Federal

agencies are not required to obtain financial protection.

At present, the maximum amount of financial protection available from private sources is $74 million, the maximum amount of private nuclear energy liability insurance that is available. The insurers who provide such liability insurance, Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters, have advised the Commission that effective January 1, 1969, the maximum amount of privately available nuclear energy liability insurance will be increased from $74 million to $82 million. Pursuant to the provisions of subsection 170b of the Act, the amount of financial protection required for facilities having a rated capacity of 100 electrical megawatts or more will be increased to $82 million, effective February 1, 1969. The following amendments to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," reflect this requirement.

The Commission is also considering whether to amend other provisions of Part 140 to increase the financial protection requirements applicable to licensees of power and testing reactors having an authorized thermal power level in excess of 1 megawatt but below 100 electrical megawatts. This matter will be the subject of a separate public notice to be issued in the future.

Since the amendments set out below conform the Commission's regulations to a statutory requirement, the Commission has found that good cause exists for omitting public notice of proposed rule making and public procedure thereon as unnecessary and for making the amendments effective without the customary 30-day notice.

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 to title 10, Chapter 1, Part 140, Code of Federal Regulations, are published as a document subject to codification, to be effective February 1, 1969.

1. Section 140.11(a)(4) is amended by deleting "$74,000,000" and substituting therefor "$82,000,000."

2. Section 140.91, Appendix A, Conditions, paragraph 4, is amended by deleting footnote 1 and substituting therefor a new footnote 1 to read as follows: "For policies issued by Nuclear Energy Liability Insurance Association the amount will be $63,550,000; for policies issued by Mutual Atomic Energy Liability Underwriters, the amount will be $18,450,000."

3. Section 140.91, Appendix A, Optional Amendatory Endorsement, paragraph III, is amended by deleting footnote 1 and substituting therefor a new footnote 1 to read as follows: "For policies issued by Nuclear Energy Liability Insurance Association the amount will be $63,550,000; for policies issued by Mutual Atomic Energy Liability Underwriters the amount will be $18,450,000."

4. Section 140.92, Appendix B, Article II, paragraph 8(a), is amended by deleting the number "$57,350,000" wherever it appears and substituting therefor "$63,550,000."

5. Section 140.92, Appendix B, Article II, paragraph 8(b), is amended by deleting the number "$16,650,000" wherever it appears and substituting therefor "$18,450,000."

6. Section 140.92, Appendix B, Article II, paragraph 8(c), is amended by deleting the number "$74,000,000" wherever it appears and substituting therefor "$82,000,000."

7. Section 140.92, Appendix B, Article III, paragraph 4(b)(2), is amended by changing "$74,000,000" to "$82,000,000."

8. Section 140.93, Appendix C, Article II, paragraph 8, is amended by deleting the number "$74,000,000" wherever it appears and substituting therefor the number "$82,000,000."

9. Section 140.93, Appendix C, Article III, paragraph 4(b)(2), is amended by changing "$74,000,000" to "$82,000,000."

10. Section 140.94, Appendix D, Article II, paragraph 6, is amended by changing "$74,000,000" to "$82,000,000."

11. Section 140.95, Appendix E, Article III, paragraph 4(b)(2), is amended by changing "$74,000,000" to "$82,000,000."

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201; sec. 170, 71 Stat. 576; 42 U.S.C 2210)

Dated at Washington, D.C., this 10th day of January 1969.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 69-697; Filed, Jan. 16, 1969; 8:51 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

PART 21—COMMISSIONED OFFICERS

Students

1. Section 21.54 of Part 21, Title 42, Code of Federal Regulations is amended by adding a second exception (b). As amended § 21.54 reads as follows:

§ 21.54 Students.

A potential candidate for appointment in the Regular Corps who is pursuing a course of instruction which, upon completion, would qualify him under §§ 21.25 or 21.26 for examination for appointment in the junior assistant or assistant grade may be examined for and appointed in the Reserve Corps in the junior assistant grade but shall not be called to extended active duty until the successful completion of such course of instruction, except that: (a) He may be called to active duty for purposes of training for periods not to exceed 120 days during any fiscal year, and (b) those students who have completed at least 3 years of collegiate or professional study leading to the qualifying degree for appointment may be called to active duty for the purpose of completing the requirements of § 21.25(a)(3). An appointment made under this subpart shall be terminated upon the officer's failure to continue a full-time course of study or failure to meet the requirements of § 21.25(a)(3) within 18 months after entering on active duty.

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

William H. Stewart,
Surgeon General.

Approved: January 9, 1969.

Wilbur J. Cohen,
Secretary.

[F.R. Doc. 69-643; Filed, Jan. 16, 1969; 8:49 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER D—RANGE MANAGEMENT (4000)

[Circular 2255]

PART 4110—GRAZING ADMINISTRATION (INSIDE GRAZING DISTRICTS) (THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS)

Grazing Regulations for Public Lands

Correction

In F.R. Doc. 69-526 appearing at page 506 of the issue for Tuesday, January 14, 1969, the fifth paragraph should read as follows:

The resulting fee formula charges the permittees only for the value of the public forage grazed after taking into account the extent to which public benefits are yielded over and above those accruing to the users of the forage resources for livestock purposes.

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 3, Amdt. 8]

PART 120—LOAN POLICY

Disaster Loans and Guarantees

Section 120.4 of Part 120 of Title 13 of the Code of Federal Regulations is hereby amended by deleting the last sentence in subparagraph (b)(4), which read as follows: "This subparagraph (4)

does not apply to loans made under the Displaced Business Disaster Assistance Program."

Effective date: December 30, 1968.

HOWARD J. SAMUELS,
Administrator.

[F.R. Doc. 69-612; Filed, Jan. 16, 1969; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 69-EA-3; Amdt. 39-709]

PART 39—AIRWORTHINESS DIRECTIVES

DeHavilland Type Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to publish an airworthiness directive applicable to DeHavilland DHC-6 type airplanes.

There has been a report of a cracked wing front fitting on DHC-6 airplanes with resultant loss of support from the fuselage for the forward part of the wing. Since this condition is likely to exist or develop in other aircraft of the same type design, an airworthiness directive is being issued to require an immediate inspection followed by repetitive inspections.

Since a situation exists that requires immediate adoption of this amendment, it is found that notice and public procedure herein are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.85 [31 F.R. 13697], § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive.

Applies to DeHavilland DHC-6 type airplanes Serial Nos. 1 through 105 certificated in all categories.

(a) Prior to the next flight unless accomplished within the last 25 hours time in service, and at intervals thereafter not to exceed 25 hours time in service from the last inspection, inspect the outside faces and corner Radii of the left and right wing front fittings, P/N C6WM1031-1, and -2 for cracks using dye penetrant and a glass of at least 10-power, or an FAA-approved equivalent inspection. Replace cracked parts before further flight with a part of the same part number or with an equivalent part approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(b) Report the results of inspection findings required by this AD to the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region (Reporting approved by the Bureau of the Budget under BOB No. 04-R0174).

(c) The repetitive inspection required by (a) may be discontinued upon installation of DeHavilland P/N C6WM1133-1 and -2 or equivalent part approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(d) The repetitive inspection compliance time may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, upon receipt of substantiating data submitted through an FAA maintenance inspection.

This amendment is effective January 16, 1969 and was effective upon receipt by all recipients of the telegram dated December 31, 1968, which contained this amendment.

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958; 49 USC 1354(a), 1421 and 1423, and sec. 6(c) of the DOT Act; 49 USC 1655(c))

Issued in Jamaica, N.Y., on January 8, 1969.

R. M. BROWN,
Acting Director, Eastern Region.

[F.R. Doc. 69-605; Filed, Jan. 16, 1969; 8:46 a.m.]

[Docket No. 68-EA-117; Amdt. 39-710]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric Aircraft Engines

On page 16600 of the FEDERAL REGISTER of November 14, 1968, the Federal Aviation Administration published a proposed airworthiness directive which would require replacement of the 12th, 13th, and 14th stage compressor discs on the General Electric Type CJ805 aircraft engines.

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

In view of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is hereby amended by adopting the rule as proposed.

This amendment is effective February 14, 1969.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; and sec. 6(c) of the DOT Act, 49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on January 8, 1969.

R. M. BROWN,
Acting Director, Eastern Region.

Amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding a new airworthiness directive as follows:

GENERAL ELECTRIC. Applies to Type CJ805-3, -3A, -3B, -23, -23B, and -23C Turbojet Engines.

Compliance required as indicated.

Within the next 6,000 hours' time in service after the effective date of this AD or at the next compressor disassembly, whichever occurs first, unless already accomplished, replace the 12th, 13th, and 14th stage compressor discs with new ones as indicated below:

Disc stage	G.E. P/N's to be replaced	New P/N
12	106R686P1 or 108R627P1	111R232P2.
13	106R687P1 or 108R628P1	111R233P2.
14	106R688P1 or 108R629P1	111R234P2.

The information in this AD is similar to that contained in General Electric Service Bulletins (880) 72-253 and (990) 72-260 and Revisions Nos. 1 and 2.

[F.R. Doc. 69-606; Filed, Jan. 16, 1969; 8:46 a.m.]

[Docket No. 68-EA-144, Amdt. 39-708]

PART 39—AIRWORTHINESS DIRECTIVES

Lycoming Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend airworthiness directive 66-6-3 which applies to Lycoming type 10-360-A1A engines.

A.D. 66-6-3 applies to connecting rod assemblies P/N 74503 and requires their replacement within certain service limits. P/N 74308 assembly is similar in design and must also be replaced. The amendment, thus, will incorporate P/N 74308 into AD 66-6-3.

Since immediate corrective action is required, notice and public procedure herein are impractical and good cause exists for making the amendment effective in less than 30 days.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.85 (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations is amended as follows:

1. Amend § 39.13 of Part 39 of the Federal Aviation Regulations by inserting the phrase "and P/N 74308" after the numerals "74503" wherever they appear in A.D. 66-6-3.

This amendment is effective January 16, 1969.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421 and 1423, and sec. 6(c) of the DOT Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on January 8, 1969.

R. M. BROWN,
Acting Director, Eastern Region.

[F.R. Doc. 69-607; Filed, Jan. 16, 1969; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 9326; Amdt. 631]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

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

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

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

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
DSM VOR	LOM	Direct	2400	T-dn*%	300-1	300-1	200-½
Mine Int	LOM (final)	Direct	2200	C-dn	400-1	500-1	500-1½
Grimes Int	LOM	Direct	2500	S-dn-30#	400-1	400-1	400-1
Ankeny Int	LOM	Direct	2500	A-dn	800-2	800-2	800-2
Elkhart Int	LOM	Direct	2500				
Beech Int	Mine Int	Direct	2400				
TNU VOR	Swan Int	Direct	2500				
Swan Int	Mine Int	Direct	2400				

Radar available.
Procedure turn E side of crs, 125° Outbnd, 305° Inbnd, 2400′ within 10 miles.
Minimum altitude over facility on final approach crs, 2200′.
Crs and distance, facility to airport, 305°—4.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles after passing LOM, climb to 2600′ on 305° bearing from LOM, turn left, proceed direct to DS LOM, or when directed by ATC, climb to 3000′, proceed to Grimes Int via 305° bearing from LOM and DSM VOR R 331°.
*When 1540′ tower, 3.2 miles NNE of airport not visible on takeoffs to N and NW, climb to 2100′ on 305° heading and takeoffs to NE climb to 2100′ on 050° heading before turning toward tower.
%RVR 2400′ authorized Runway 30.
#RVR 40 with operative ALS, except 4-engine turbojets.
MSA within 25 miles of facility: 000°-090°—2800′; 090°-180°—2300′; 180°-270°—2400′; 270°-360°—2600′.

City, Des Moines; State, Iowa; Airport name, Des Moines Municipal; Elev., 957′; Fac. Class., LOM; Ident., DS; Procedure No. NDB (ADF) Runway 30, Amdt. 10; Eff. date, 30 Jan. 69; Sup. Amdt. No. 9; Dated, 18 Feb. 67

HSI VOR	HSI RBn	Direct	3700	T-dn	300-1	300-1	300-1
GRI VOR	HSI RBn	Direct	3700	C-dn&$	500-1	500-1	500-1½
				S-dn-14&$	400-1	400-1	400-1
				A-dn&$	800-2	800-2	800-2

Procedure turn W side of crs, 326° Outbnd, 146° Inbnd, 3700′ within 10 miles.
Minimum altitude over facility on final approach crs, 3500′.
Crs and distance, facility to airport, 146°—4.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing HSI RBn, climb to 3700′ on 135° bearing from HSI RBn within 10 miles, turn right and return to HSI RBn.
NOTES: (1) Use Grand Island, Nebr., altimeter setting when control zone not effective. (2) When instrument flight planned to NW, N, or NE, maintain runway heading 140°-320° as appropriate until 3700′ before departing on crs. (3) Lights operating on Runways 14-32 only.
CAUTION: 2707′ tower, 2.8 miles NNE of airport.
&These minimums apply at all times for those air carriers with approved weather reporting service.
$Circling and straight-in ceiling minimums are raised 100′ and alternate minimums not authorized when control zone not effective.
MSA: 000°-090°—4100′; 090°-180°—3800′; 180°-360°—4300′.

City, Hastings; State, Nebr.; Airport name, Hastings Municipal; Elev., 1954′; Fac. Class., HW; Ident., HSI; Procedure No. NDB (ADF) Runway 14, Amdt. 4; Eff. date, 30 Jan. 69; Sup. Amdt. No. ADF 1, Amdt. 3; Dated, 13 Aug. 66

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

Nashville Int	LOM	Direct	2900	T-dn*	300-1	300-1	200-½
EOS VOR	LOM	Direct	3000	C-dn	400-1	500-1	500-1½
Granby Int	LOM	Direct	2700	S-dn-13	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn N side of crs, 311° Outbnd, 131° Inbnd, 2500′ within 10 miles.
Minimum altitude over facility on final approach 2100′.
Crs and distance, facility to airport, 131°—3.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.7 miles after passing LOM, climb to 2800′ on 131° crs, proceed to Granby Int or, when directed by ATC, make left turn, climbing to 2500′ and proceed to LOM.
NOTE: Final approach from holding pattern at JL LOM not authorized, procedure turn required.
*When weather is below 1100-3, southwestbound IFR departures climb to 2500′ within 4 miles of the Municipal Airport before proceeding on crs, due to 2049′ tower, 4.5 miles SSW of airport.
MSA within 25 miles of facility: 000°–090°—2400′; 090°–180°—3100′; 180°–270°—3000′; 270°–360°—3100′.

City, Joplin; State, Mo.; Airport name, Joplin Municipal; Elev., 980′; Fac. Class., LOM; Ident., JL; Procedure No. NDB (ADF) Runway 13, Amdt. 14; Eff. date, 30 Jan. 69; Sup. Amdt. No. 13; Dated, 14 Oct. 67

Dover Int	LOM	Direct	3000	T-dr*	300-1	300-1	200-½
TOP VOR	LOM	Direct	2500	C-dn	600-1	600-1	600-1½
				S-dn-13@	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2
				ADF/VOR Minimums:			
				S-dn-13@	400-1	400-1	400-1

Radar available.
Procedure turn N side of crs, 300° Outbnd, 120° Inbnd, 2500′ within 10 miles.
Minimum altitude over TOP RBn on final approach crs, 2100′, over Garfield Int, 1380′.
Crs and distance, TOP RBn to Garfield Int, 120°—2.5 miles, Garfield Int to airport, 120°—1.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles after passing TOP RBn, climb to 2600′ on 120° crs within 15 miles or, when directed by ATC, (1) turn left, climbing to 2600′, proceed to TOP VOR or; (2) turn left, climbing to 2500′ and return to TOP LOM.
NOTE: Final approach from holding pattern at TOP LOM not authorized, procedure turn required.
@Sliding scale not authorized.
*When weather is below 1200-3, westbound IFR departures climb to 2500′ within 5 miles of the Municipal Airport before proceeding on crs due to 2031′ tower, 6.2 miles west of airport.
MSA within 25 miles of facility: 000°–090°—2700′; 090°–180°—2700′; 180°–270°—3600′; 270°–360°—2700′.

City, Topeka; State, Kans.; Airport name, Philip Billard Municipal; Elev., 880′; Fac Class., MHW; Ident., TOP; Procedure No. NDB (ADF) Runway 13, Amdt. 20; Eff. date, 30 Jan. 69; Sup. Amdt. No. 19; Dated, 4 Feb. 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
GRI VOR	HSI VOR	Direct	3700	T-dn	300-1	300-1	300-1
				C-dn&$	600-1	600-1	600-1½
				S-dn-14&$	600-1	600-1	600-1
				A-dn&$	800-2	800-2	800-2
				Minimums with VOR/ADF receivers:			
				C-dn&$	500-1	500-1	500-1½
				S-dn-14&$	400-1	400-1	400-1

Procedure turn W side of crs, 328° Outbnd, 148° Inbnd, 3700′ within 11 miles.
Minimum altitude over Hansen Int on final approach crs, 2554′% (2654′% when control zone not effective).
Crs and distance, Hansen Int to airport, 148°—5 miles; Hansen Int to VOR, 148°—5.2 miles; breakoff point to Runway 14, 140°—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing HSI VOR, climb to 3700′ on R 133° within 10 miles, make left turn and return to HSI VOR.
CAUTION: 2707′ tower, 2.8 miles NNE of airport.
NOTES: (1) Use Grand Island altimeter setting when control zone not effective. (2) When instrument flight planned to N, NW, or NE, maintain runway heading 140°–320° as appropriate until 3700′ before departing on crs. (3) Lights operating on Runways 14-32 only.
&These minimums apply at all times for those air carriers with approved weather reporting service.
$Circling and straight-in ceiling minimums are raised 100′ and alternate minimums not authorized when control zone not effective.
MSA: 000°–090°—4100′; 090°–180°—3800′; 180°–360°—4300′.

City, Hastings; State, Nebr.; Airport name, Hastings Municipal; Elev., 1954′; Fac. Class., BVOR; Ident., HSI; Procedure No. VOR Runway 14, Amdt. 7; Eff. date, 30 Jan 69; Sup. Amdt. No. TerVOR-14, Amdt. 6; Dated, 10 Sept. 66

GRI VOR	HSI VOR	Direct	3700	T-dn	300-1	300-1	300-1
				C-dn&$	600-1	600-1	600-1½
				S-dn-32&$	600-1	600-1	600-1
				A-dn&$	800-2	800-2	800-2

Procedure turn E side of crs, 133° Outbnd, 313° Inbnd, 3700′ within 10 miles.
Minimum altitude over facility on final approach crs 2554′% (2654′% when control zone not effective).
Facility on airport. Breakoff point to Runway 32, 320°—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing HSI VOR, climb to 3700′ on R 328° within 12 miles, make left turn and return to HSI VOR.
NOTES: (1) Use Grand Island, Nebr., altimeter setting when control zone not effective. (2) When instrument flight planned to N, NW, or NE, maintain runway heading 140°–320° as appropriate until 3700′ before departing on crs. (3) Lights operating on Runways 14-32 only.
CAUTION: 2707′ tower, 2.8 miles NNE of airport.
&These minimums apply at all times for those air carriers with approved weather reporting service.
$Circling and straight-in ceiling minimums are raised 100′ and alternate minimums not authorized when control zone not effective.
MSA: 000°000°—4100′; 090°–180°—3800′; 180°–360°—4300′.

City, Hastings; State, Nebr.; Airport name, Hastings Municipal; Elev., 1954′; Fac. Class., BVOR; Ident., HSI; Procedure No. VOR Runway 32, Amdt. 5; Eff. date, 30 Jan.69; Sup. Amdt. No. Ter VOR-32, Amdt. 4; Dated, 13 Aug. 66

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE TERMINAL VOR

IDA RBn	VOR	Direct	6200	T-dn%	300-1	300-1	200-½
Rigby Int	VOR	Direct	6200	C-dn	500-1	500-1	500-1½
				S-dn-2*	500-1	500-1	500-1
PIH VOR	IDA VOR	Via PIH R 010° and IDA R 206°.	7000	A-dn	800-2	800-2	800-2

Radar available.
Procedure turn W side crs, 206° Outbnd, 026° Inbnd, 6200' within 10 miles.
Minimum altitude over Shelley Radar Fix (R 206°/10 miles) on final approach crs, 7000'; over VOR, 5240'.
Crs and distance, breakoff point to Runway 2, 021°—1 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing IDA VOR, climb to 7000' on R 013° within 10 miles, or when directed by ATC, within 0 mile after passing IDA VOR, turn left climbing to 7000' on R 196° of IDA VOR within 10 miles.
NOTE: Chart Shelley Radar Fix in plan view only.
*500-¾ authorized, with operative high-intensity runway lights, except for 4-engine turbojet aircraft.
%Takeoff all runways: Shuttle climb on R 196° of IDA VOR within 20 miles to minimum altitude required for direction of flight.

Direction of flight	*MCA*
E V-330	6400

MSA within 25 miles of facility: 000°-090°—9400'; 090°-180°—8800'; 180°-270°—7900'; 270°-360°—7000'.

City, Idaho Falls; State, Idaho; Airport name, Fanning Field; Elev., 4740'; Fac. Class., L-BVOR; Ident., IDA; Procedure No. VOR Runway 2, Amdt. 10; Eff. Date, 30 Jan. 69; Sup. Amdt. No. VOR-2, Amdt. 9; Dated, 10 Sept. 66

IDA RBn	VOR	Direct	6500	T-dn%	300-1	300-1	200-½
Rigby Int	IDA RBn (final)	Direct	5400	C-dn*	500-1	500-1	500-1½
				S-dn-20*#	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn N side of crs, 013° Outbnd, 193° Inbnd, 6200' within 10 miles.
Minimum altitude over IDA RBn on final approach crs, 5400'; over VOR, 5140'.
Crs and distance, breakoff point to Runway 20, 201°—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of IDA VOR, climb to 7000' on R 196 IDA VOR within 10 miles.
*ADF equipment required for descent below 5400'.
#400-¾ authorized, except for 4-engine turbojet aircraft, with operative high-intensity runway lights.
%Takeoff all runways: Shuttle climb on R 196 of IDA VOR within 20 miles to minimum altitude required for direction of flight.

Direction of flight	*MCA*
E V-330	6400

MSA within 25 miles of facility: 000°-090°—9400'; 090°-180°—8800'; 180°-270°—7900'; 270°-360°—7000'.

City, Idaho Falls; State, Idaho; Airport name, Fanning Field; Elev., 4740'; Fac. Class., BVOR; Ident., IDA; Procedure No. VOR Runway 20, Amdt. 6; Eff. date, 30 Jan. 69; Sup. Amdt. No. VOR-20, Amdt. 5; Dated, 28 May 66

Wilton Int	JEF VOR	Direct	2900	T-d	500-1	500-1	500-1
Algoa Int	JEF VOR	Direct	2400	T-n	500-2	500-2	500-2
CBI VOR	Scott Int	Direct	2400	C-dn$&	700-1	700-1	700-1½
Scott Int	Cole Int (final)	Direct	1800	S-dn-12$&@	700-1	700-1	700-1
Guthrie Int	JEF VOR	Direct	3000	A-dn$&	1000-2	1000-2	1000-2
Jamestown Int	Scott Int	Direct	2400				

Procedure turn S side of crs, 302° Outbnd, 122° Inbnd, 2400' within 10 miles.
Minimum altitude over facility on final approach crs, 1247'*. (1347'* when control zone not effective.)
Facility on airport. Crs and distance, Cole Int to airport, 122°—5.8 miles; breakoff point to Runway 12, 116°—0.9 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing JEF VOR, climb to 2500' on JEF VOR R 112° within 10 miles, make right turn and return to JEF VOR. Hold SE on JEF VOR R 112°, 292° Inbnd, left turns.
NOTES: (1) Use Columbia, Mo., altimeter setting when control zone not effective. (2) If weather is below 1300-3, climb to 1200' on runway heading before departing to NE.
CAUTION: 985' tower located 1.3 miles W of airport. 1000' tower located 2.7 miles SE of airport. 1151' tower located 3.9 miles NE of airport. 1784' tower located 6.2 miles NE of airport.
$Circling and straight-in ceiling minimums are raised 100' and alternate minimums not authorized when control zone not effective.
&These minimums apply at all times for air carriers with approved weather reporting service.
@Reduction not authorized for nonstandard REIL.
MSA within 25 miles of facility: 000°-090°—2800'; 090°-180°—2300'; 180°-270°—2200'; 270°-360°—2700'.

City, Jefferson City; State, Mo.; Airport name, Jefferson City Memorial; Elev., 547'; Fac. Class., L-BVOR; Ident., JEF; Procedure No. VOR Runway 12, Amdt. 6; Eff. date 30 Jan. 69; Sup. Amdt. No. 5; Dated, 7 Dec. 67

T-dn*	300-1	300-1	200-½
C-dn	600-1	600-1	600-1½
S-dn-22#	600-1	600-1	600-1
A-dn	800-2	800-2	800-2

Radar available.
Procedure turn N side of crs, 031° Outbnd, 211° Inbnd, 2600' within 10 miles.
Minimum altitude over facility on final approach crs, 2300'.
Crs and distance, facility to airport, 211°—4.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing TOP VOR, climb to 2600' on R 166° within 20 miles or, when directed by ATC, turn left, climb to 2600' and return to TOP VOR.
*When weather is below 1200-3, westbound IFR departures climb to 2500' within 5 miles of the Municipal Airport before proceeding on crs due to 2031' tower, 6.2 miles west of the airport.
#Reduction not authorized.
MSA within 25 miles of facility: 000°-090°—2700'; 090°-180°—2700'; 180°-270°—3600'; 270°-360°—2700'.

City, Topeka; State, Kans.; Airport name, Philip Billard Municipal; Elev., 880'; Fac. Class., L-BVORTAC; Ident., TOP; Procedure No. VOR Runway 22, Amdt. 10; Eff. date, 30 Jan. 69; Sup. Amdt. No. 9; Dated, 4 Feb. 67

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

Charlotte, N.C.—Douglas Municipal, NDB (ADF) Runway 5, Amdt. 20, 6 Jan. 1968 (established under Subpart C).

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

Elkins, W. Va.—Elkins-Randolph County, LFR-1, Amdt. 6, 4 Apr. 1968, canceled, effective 30 Jan. 1969.

4. By amending § 97.15 of Subpart B to amend very high frequency omnirange-distance measuring equipment (VOR/DME) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR/DME

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
TOP VOR	7-mile DME Fix, R 108° TOP VOR	Direct	2700	T-dn*	300-1	300-1	300-1
Eudora Int	Perry Int	Direct	2700	C-dn	600-1	600-1	600-1½
7-mile DME Fix, R 022°, TOP VOR clockwise	7-mile DME Fix, R 108° TOP VOR	Via 7-mile DME Arc.	2700	A-dn	NA	NA	NA
7-mile DME Fix, R 108° TOP VOR	Perry Int (final)	Direct	2700				

Radar available.
Procedure turn N side of crs, 288° Outbnd, 108° Inbnd, 2700' within 10 miles of Perry Int.
Minimum altitude over Perry Int on final approach crs, 2700'.
Crs and distance, facility to airport, 108°—17.3 miles; Perry Int to airport, 108°—5.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 17.3-mile DME Fix, make left turn, climbing to 2700', return to Perry Int. Hold E, left turns.
NOTES: (1) Lights on Runways 1-19 only. (2) Use Topeka, Kans., altimeter setting.
*When IFR flight planned to S or SW, climb to 1700' on 155° heading before turning toward 1624' tower, 3.8 miles SSW of airport.
MSA within 25 miles of facility: 000°-090°—2700'; 090°-180°—2700'; 180°-270°—3600'; 270°-360°—2700'.

City, Lawrence; State, Kans.; Airport name, Lawrence Municipal: Elev., 832'; Fac. Class., H-BVORTAC; Ident., TOP; Procedure No. VOR/DME-1, Amdt. 1; Eff. date, 30 Jan. 69; Sup. Amdt. No. Orig.; Dated, 12 Oct. 67

5. By amending § 97.15 of Subpart B to delete very high frequency omnirange-distance measuring equipment (VOR/DME) procedures as follows:

Charlotte, N.C.—Douglas Municipal, VOR/DME Runway 5, Amdt. 2, 8 July 1967 (established under Subpart C).
Charlotte, N.C.—Douglas Municipal, VOR/DME No. 1, Amdt. 3, 23 June 1966 (established under Subpart C).
Charlotte, N.C.—Douglas Municipal, VOR/DME No. 2, Amdt. 1, 23 June 1966 (established under Subpart C).
Charlotte, N.C.—Douglas Municipal, VOR/DME Runway 36, Amdt. 2, 8 July 1967 (established under Subpart C).

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
Des Moines VOR	LOM	Direct	2400	T-dn*##	300-1	300-1	200-½
Ankeny Int	LOM	Direct	2500	C-dn	400-1	500-1	500-1½
Grimes Int	LOM	Direct	2500	S-dn-30**#:	200-¾	200-½	200-½
Elkhart Int	LOM	Direct	2500	A-dn	600-2	600-2	600-2
Mine Int	LOM (final)	Direct	2400				
Beech Int	Mine Int	Direct	2400				
TNU VOR	Swan Int	Direct	2500				
Swan Int	Mine Int	Direct	2400				

Radar available.
Procedure turn E side of crs, 125° Outbnd, 305° Inbnd, 2400' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2400'.
Altitude of glide slope and distance to approach end of runway at OM, 2371'—4.3 miles, at MM, 1183'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles after passing LOM, climb to 2600' on 305° bearing from LOM, turn left, proceed direct to DSM VOR, or when directed by ATC, climb to 3000'; proceed to Grimes Int via 305° bearing from LOM and DSM VOR R 331°.
CAUTION: *When weather below 600-1 plan IFR departures northbound to avoid 1546' tower, 3.2 miles N of airport.
**400-¾ required when glide slope not utilized; 400-½ authorized with operative ALS except for 4-engine turbojets.
#RVR 2400'. Descent below 1157' not authorized unless ALS is visible.
##RVR 2400' authorized Runway 30.
MSA within 25 miles of facility: 000°-090°—2800'; 090°-180°—2300'; 180°-270°—2400'; 270°-360°—2600'.

City, Des Moines; State, Iowa; Airport name, Des Moines Municipal; Elev., 957'; Fac. Class., ILS; Ident., I-DSM; Procedure No. ILS Runway 30, Amdt. 10; Eff. date, 30 Jan 69; Sup. Amdt. No. 9; Dated, 18 Feb. 67

Granby Int	LOM	Direct	2700	T-dn*	300-1	300-1	200-½
Nashville Int	LOM	Direct	2900	C-dn	400-1	500-1	500-1½
EOS VOR	LOM	Direct	3000	S-dn-13@	300-¾	300-¾	300-¾
				A-dn	600-2	600-2	600-2

Procedure turn N side of crs, 311° Outbnd, 131° Inbnd, 2500' within 10 miles.
Minimum altitude at glide slope intercept Inbnd, 2100'.
Altitude of glide slope and distance to approach end of runway at LOM, 2051'—3.7 miles; at MM, 1160'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.7 miles after passing JL LOM, climb to 2800' on SE crs ILS, proceed to Granby Int or, when directed by ATC, make left turn, climbing to 2500' and proceed to LOM.
NOTE: Final approach from holding pattern not authorized. Procedure turn required.
*When weather is below 1100-3, southwestbound IFR departures climb to 2500' within 4 miles of the Municipal Airport before proceeding on crs, due to 2049' tower, 4.5 miles SSW of airport.
@400-1 required when glide slope not utilized. 400-¾ authorized with operative HIRL, except for 4-engine turbojets.
MSA within 25 miles of JL LOM: 000°-090°—2400'; 090°-180°—3100'; 180°-270°—3000'; 270°-360°—3100'.

City, Joplin; State, Mo.; Airport name, Joplin Municipal; Elev., 980'; Fac. Class., ILS; Ident., I-JLN; Procedure No. ILS Runway 13, Amdt. 13; Eff. date, 30 Jan. 69; Sup Amdt. No. 12; Dated, 14 Oct. 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Granby Int	Webb City Int (final)	Direct	2700	T-dn*	300-1	300-1	200-½
JL LOM	Webb City Int	Direct	2800	C-dn	500-1	500-1	500-1½
				S-dn-31@	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Procedure turn E side of SE crs, 131° Outbnd, 311° Inbnd, 2800′ within 10 miles of Webb City Int.
No glide slope. Minimum altitude over Webb City Int on final approach crs, 2700′.
Crs and distance, Webb City Int to airport, 311°—5.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.9 miles after passing Webb City Int, climb to 2500; on the NW crs of JLN localizer to JL LOM.
NOTE: Dual VOR receivers required.
*When weather is below 1100-3, southwestbound IFR departures climb to 2500′ within 4 miles of the Municipal Airport before proceeding on crs, due to 2049′ tower, 4.5 miles SSW of airport.
@Reduction not authorized.

City, Joplin; State, Mo.; Airport name, Joplin Municipal; Elev., 980′; Fac. Class., ILS; Ident., I-JLN; Procedure No. LOC (BC) Runway 31, Amdt. 11; Eff. date, 30 Jan. 69; Sup. Amdt. No. 10; Dated, 11 Feb. 67

Narrows VHF Int	LOM (final)	Direct	1300	T-dn*	300-1	300-1	200-½
Channel VHF Int	Narrows VHF Int	Via JFK VOR, R 189° and SBJ VOR, R 114°.	1500	C-dn	600-1	600-1	600-1½
				S-dn-4R# **	200-½	200-½	200-½
				A-dn	600-2	600-2	600-2
				Category II special authorization required: TDZ elevation, 12′. S-dn-4R-DH 150′, RVR 1600′, 162′ MSL, RA 162′.			

Radar available.
Procedure turn S side of crs, 222° Outbnd, 042° Inbnd, 1300′ within 10 miles of LOM.
Minimum altitude at glide slope interception Inbnd, 1300′.
Altitude of glide slope and distance to approach end of runway at OM, 797′—2.7 miles; at MM, 221′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.7 miles after passing LOM, climb straight ahead to 500′ then make a climbing right turn to 3000′ on JFK R 077° to Deer Park VOR. Hold E, 1-minute left turns, Inbnd crs, 257°.
Category II missed approach: Climb straight ahead to 500′, then make a climbing right turn to 3000′ on JFK R 077° to Deer Park VOR. Hold E, 1 minute, left turns, Inbnd crs, 257°.
CAUTION: DME indication at 1300′ altitude/glide slope interception 4.6 miles; at OM, 2.8 miles; at MM, 0.75 mile. DME should not be used to determine aircraft position over MM, runway threshold or runway touchdown point.
#Glide slope inoperative minimums 400-½ Categories A, B, C; 400-¾ Category D.
*RVR Runways 4R, 22L, 2000′, 4-engine turbojets. 1800′ other aircraft. RVR Runway 31L, 2000′. RVR Runway 31, 2400′.
**RVR 2000′ 4-engine turbojets. 1800′ other aircraft. Descent below 212′ not authorized unless ALS visible.
MSA within 25 miles of LOM: 000°-090°—2000′; 090°-180°—1400′; 180°-270°—1600′; 270°-360°—2000′.
Supplementary charting information: Category II, DH 162′, MSL located 2225′ from runway threshold.

City, New York; State, N.Y.; Airport name, John F. Kennedy International; Elev., 12′; Fac. Class., ILS; Ident., I-JFK; Procedure No. ILS Runway 4R, Amdt. 15; Eff. date, 28 Jan. 69; Sup. Amdt. No. 14; Dated, 18 Apr. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
				T-dn	300-1	300-1	200-½
				C-dn	600-1	600-1	600-1¼
				S-dn-13L	300-¾	300-¾	300-¾
				A-dn	600-2	600-2	600-2
				Glide slope inoperative minimums:			
				S-dn-13L#	600-1	600-1	600-1

Radar required.
Procedure turn not authorized.
Crs and distance OM to airport, 132°—4.1 miles.
Minimum altitude at glide slope interception Inbnd, 1500′.
Altitude of glide slope and distance to approach end of runway at OM, 1371′—4.1 miles; at MM, 212′—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb straight ahead, intercept and proceed via the JFK R 077° to DPK VORTAC climbing to 3000′. Hold at DPK VORTAC, 1 minute, left turns, 257° Inbnd.
Supplementary charting information: (1) Start profile at glide slope interception altitude. (2) TDZ elevation, 12′.
#Inoperative components table does not apply to HIRLs.

City, New York; State, N.Y.; Airport name, John F. Kennedy International; Elev., 12′; Fac. Class., ILS; Ident., I-TLK; Procedure No. ILS Runway 13L, Amdt. 1; Eff. date, 30 Jan. 69; Sup. Amdt. No. LOC Runway 13L, Orig.; Dated, 19 Dec. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

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

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
Dover Int	LOM	Direct	3000	T-dn*	300-1	300-1	200-½
TOP VOR	LOM	Direct	2500	C-dn	600-1	600-1	600-1¼
				S-dn-13@	300-¾	300-¾	300-¾
				A-dn	600-2	600-2	600-2

Radar available.
Procedure turn N side of crs, 306° Outbnd, 126° Inbnd, 2500' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2100'.
Altitude of glide slope and distance to approach end of runway at LOM, 2030'—3.9 miles; at MM, 1078'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles after passing TOP LOM, climb to 2600' on SE crs, of ILS within 15 miles or, when directed by ATC, turn left, climbing to 2600', proceed to TOP VOR or turn left, climbing to 2500' and return to TOP LOM.
NOTES: (1) Final approach from holding pattern at TOP LOM not authorized, procedure turn required. (2) Glide slope unusable below 1078'.
@400-1 required when glide slope not utilized. Reduction not authorized.
*When weather is below 1200-3, westbound IFR departures climb to 2500' within 5 miles of the Municipal Airport before proceeding on crs due to 2031' tower, 6.2 miles west of the airport.
MSA within 25 miles of TOP LOM: 000°-090°—2700'; 090°-180°—2700'; 180°-270°—3000'; 270°-360°—2700'.

City, Topeka; State, Kans.; Airport name, Philip Billard Municipal; Elev., 880'; Facility Class., ILS; Ident., I-TOP; Procedure No. ILS Runway 13, Amdt. 21; Eff. date, 30 Jan. 69; Sup. Amdt. No. 20; Dated, 4 Feb. 67

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

Charlotte, N.C.—Douglas Municipal, ILS Runway 5, Amdt. 21, 6 Jan. 1968 (established under Subpart C).

8. By amending § 97.19 of Subpart B to amend radar procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

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

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
000°	360°	0-25 miles	2600	Surveillance approach			
330°	030°	25-35 miles	3000	T-dn*##	300-1	300-1	200-½
030°	090°	25-35 miles	2700	C-dn	400-1	500-1	500-1¼
				S-dn-12, 30, 5#	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

All bearings and distance are from radar site located on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2800', proceed direct to DSM VOR, or when directed by ATC, climb to 2700', proceed direct to TNU VOR.
*When 1546' tower, 3.2 miles NNE of airport not visible on takeoffs to N and NW, climb to 2100' on 305° heading and takeoffs to NE climb to 2100' on 050° heading before turning toward tower.
#400-¾ authorized Runway 12 with operative SALS, except for 4-engine turbojets, 400-¾ (RVR 4000) authorized Runway 30 with operative HIRL; 400-½ (RVR 2400) authorized with operative ALS, except for 4-engine turbojets.
##RVR 2400' authorized Runway 30.

City, Des Moines; State, Iowa; Airport name, Des Moines Municipal; Elev., 957'; Facility, Des Moines Radar; Procedure No. Radar-1, Amdt. 7; Eff. date, 30 Jan. 69; Sup. Amdt. No. 6; Dated, 23 Dec. 67

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

Charlotte, N.C.—Douglas Municipal, Radar 1, Amdt. 6, 30 Sept. 1967 (established under Subpart C).

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.1 miles after passing Salem City Int.
CGE NDB	Salem City Int	SBY R 303°	1700	Climb to 1700', right turn direct to Salem City Int. and hold.
PXT VORTAC	Salem City Int	Direct	2000	
SBY VORTAC	Salem City Int (NOPT)	Direct	1700	Supplementary charting information: Hold SE of Salem City Int, 1 minute, right turns, 303° Inbnd.

Procedure turn N side of crs, 123° Outbnd, 303° Inbnd, 1700' within 10 miles of Salem City Int.
FAF, Salem City Int. Final approach crs, 303°. Distance FAF to MAP, 5.1 miles.
Minimum altitude over Salem City Int, 1700'.
MSA: 000°-090°—1700'; 090°-180°—1700'; 180°-270°—1700'; 270°-360°—1700'.
NOTE: Use Salisbury, Md., altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B	C	D
	MDA	VIS	HAA	VIS	VIS	VIS
C	600	1	530	NA	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.		T over 2-eng.—Not authorized.	

City, Cambridge; State, Md.; Airport name, Cambridge Municipal; Elev., 20'; Facility SBY; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 30 Jan. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CLT VORTAC.
Bradley Int	CLT VORTAC	Direct	3000	Climb to 3000' on CLT VORTAC, R 063° to Bradley Int; or, when directed by ATC, climbing right turn to 2300' on CLT VORTAC, R 133° to Weddington Int.
Weddington Int	CLT VORTAC	Direct	2300	
Bethany Int	CLT VORTAC	Direct	2300	
Waco Int	CLT VORTAC	Direct	2900	
Stanley Int	CLT VORTAC	Direct	2900	Supplementary charting information: Final approach crs intercepts runway centerline 2500' from threshold. REIL Runway 36. TDZ elevation, 717'.

Procedure turn N side of crs, 225° Outbnd, 045° Inbnd, 2300' within 10 miles of Lake Int or 5.5-mile DME Fix.
Final approach crs, 045°.
Minimum altitude over Lake Int or 5.5-mile DME Fix, 1700'.
MSA: 000°-090°—3000'; 090°-180°—3000'; 180°-270°—2800'; 270°-360°—2000'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-5	1160	RVR 24	443	1160	RVR 24	443	1160	RVR 24	443	1160	RVR 50	443
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1220	1	472	1220	1	472	1220	1¼	472	1300	2	552
A	Standard.		T 2-eng. or less—RVR 24, Runway 5; Standard all other runways.				T over 2-eng.—RVR 24, Runway 5; Standard all other runways.					

City, Charlotte; State, N.C.; Airport name, Douglas Municipal; Elev., 748'; Facility, CLT; Procedure No. VOR Runway 5, Amdt. 3; Eff. date, 30 Jan. 69; Sup. Amdt. No. VOR/DME Runway 5, Amdt. 2; Dated, 8 July 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CLT VORTAC.
FML VORTAC	CLT VORTAC	Direct	2300	Climb to 2300' on CLT VORTAC, R 185° and proceed to FML VORTAC; or, when directed by ATC, climb to 2300' right turn to York Int via CLT VORTAC, R 229°.
Bradley Int	CLT VORTAC	Direct	3000	
Weddington Int	CLT VORTAC	Direct	2300	
Bethany Int	CLT VORTAC	Direct	2300	
Waco Int	CLT VORTAC	Direct	2900	
Stanley Int	CLT VORTAC	Direct	2900	Supplementary charting information: Final approach crs intercepts runway centerline 4100' from threshold. REIL Runway 36. TDZ elevation, 747'.

Procedure turn W side of crs, 005° Outbnd, 185° Inbnd, 2300' within 10 miles of CLT VORTAC.
Final approach crs, 185°.
Minimum altitude over Railroad 5-mile DME Fix, 1640'.
MSA: 000°-090°—3000'; 090°-180°—3000'; 180°-270°—2800'; 270°-360°—2900'.

NOTES: (1) ASR. (2) Inoperative component table does not apply to HIRL Runway 18.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-18	1640	1¼	893	1640	1½	893	1640	1¾	893	1640	2	893
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1640	1¼	892	1640	1½	892	1640	1¾	892	1640	2	892
	VOR/DME/RADAR Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-18	1300	1	553	1300	1	553	1300	1	553	1300	1¼	553
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1300	1	552	1300	1	552	1300	1½	552	1300	2	552
A	Standard.		T 2-eng. or less—RVR 24, Runway 5; Standard all other runways.				T over 2-eng.—RVR 24, Runway 5; Standard all other runways.					

City, Charlotte; State, N.C.; Airport name, Douglas Municipal; Elev., 748'; Facility, CLT; Procedure No. VOR Runway 18, Amdt. 4; Eff. date, 30 Jan. 69; Sup. Amdt. No. VOR/DME No. 1, Amdt. 3; Dated, 23 Jan. 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CLT VORTAC.
Bradley Int	CLT VORTAC	Direct	3000	Climb to 2300' on CLT VORTAC, R 229° to York Int; or, when directed by ATC, climb to 2300' left turn via R 185°, CLT VORTAC to FML VORTAC.
Weddington Int	CLT VORTAC	Direct	3000	
Bethany Int	CLT VORTAC	Direct	3000	
Waco Int	CLT VORTAC	Direct	3000	
Stanley Int	CLT VORTAC	Direct	3000	Supplementary charting information: Final approach crs intercepts runway centerline 3000' from threshold. REIL Runway 36. TDZ elevation, 748'

Procedure turn N side of crs, 060°, Outbnd, 240° Inbnd, 3000' within 10 miles of Parks Int.
Final approach crs, 240°.
Minimum altitude over Parks Int or 5-mile DME Fix, 1800'.
MSA: 000°-090°—3000'; 090°-180°—3000'; 180°-270°—2800'; 270°-360°—2900'.
NOTES: (1) ASR. (2) Inoperative component table does not apply to HIRL Runway 23.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-23	1300	1	552	1300	1	552	1300	1	552	1300	1¼	552
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1300	1	552	1300	1	552	1300	1½	552	1300	2	552
A	Standard.		T 2-eng. or less—RVR 24, Runway 5; Standard all other runways.				T over 2-eng.—RVR 24, Runway 5; Standard all other runways.					

City, Charlotte; State, N.C.; Airport name, Douglas Municipal; Elev., 748'; Facility, CLT; Procedure No. VOR Runway 23, Amdt. 2; Eff. date, 30 Jan. 69; Sup. Amdt. No. VOR/DME No. 2, Amdt. 1; Dated, 23 June 66

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CLT VORTAC.
FML VORTAC	Ross Int (NOPT)	Direct	1800	Climb to 2300', left turn via R 229°, CLT VORTAC to York Int; or, when directed by ATC, climb to 2300' left turn via R 185°, CLT VORTAC to FML VORTAC.
Bradley Int	CLT VORTAC	Direct	2000	
Weddington Int	CLT VORTAC	Direct	2300	
Bethany Int	CLT VORTAC	Direct	2300	
Waco Int	CLT VORTAC	Direct	2000	
Stanley Int	CLT VORTAC	Direct	2000	Supplementary charting information: Final approach crs intercepts runway centerline 2500' from threshold. REIL Runway 36. TDZ elevation, 726'.

Procedure turn E side of crs, 173° Outbnd, 353° Inbnd, 2200' within 10 miles of Ross Int.
Final approach crs, 353°.
Minimum altitude over Ross Int or 5.5-mile DME Fix, 1800'.
MSA: 000°-090°—3000'; 090°-180°—3000'; 180°-270°—2800'; 270°-360°—2900'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-36	1120	¾	394	1120	¾	394	1120	¾	394	1120	1	394
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1220	1	472	1220	1	472	1220	1¼	472	1300	2	552
A	Standard.		T 2-eng. or less—RVR 24, Runway 5; Standard all other runways.				T over 2-eng.—RVR 24, Runway 5; Standard all other runways.					

City, Charlotte; State, N.C.; Airport name, Douglas Municipal; Elev., 748'; Facility, CLT; Procedure No. VOR Runway 36, Amdt. 3; Eff. date, 30 Jan. 69; Sup. Amdt. No. VOR/DME Runway 36, Amdt. 2; Dated, 8 July 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.8 miles after passing Green Hill Int.
Solberg VORTAC	Flemington Int	Direct	2300	Climbing right turn to 2200' direct to Green Hill Int and hold.
Yardley VORTAC	Green Hill Int	Direct	2300	
Dublin Int	Green Hill Int	Direct	2300	Supplementary charting information: Hold NE, SBJ R 239°, Inbnd crs, 239°, 1 minute, right turns, 2300'.
Flemington Int	Green Hill Int (NOPT)	Direct	1200	

Procedure turn N side of crs, 059° Outbnd, 239° Inbnd, 2300' within 10 miles of Green Hill Int.
FAF, Green Hill Int. Final approach crs, 239°. Distance FAF to MAP, 5.8 miles.
Minimum altitude over Flemington Int, 2300'; over Green Hill Int., 1200'.
MSA: 000°-090°—2500'; 090°-180°—1800'; 180°-270°—2000'; 270°-360°—2500'.
#Night minimums not authorized.

DAY AND NIGHT MINIMUMS

Cond.	A			B	C	D
	MDA	VIS	HAT	VIS	VIS	VIS
S-23#	1000	1	606	NA	NA	NA
	MDA	VIS	HAA			
C#	1000	1	606	NA	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.		T over 2-eng.—Not authorized.	

City, Doylestown; State, Pa.; Airport name, Central Bucks County; Elev., 394'; Facility, SBJ; Procedure No. VOR Runway 23, Amdt. Orig; Eff. date, 30 Jan. 69; Sup. Amdt. No. Orig.; Dated, 30 Jan. 69

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6 miles after passing Como Int.
Grandview LOM	Como Int	CBP LOC crs	2700	Climb to 2500' direct Grandview LOM and hold.
Summit Station LOM	Como Int	DR 096° and CBP LOC crs	2700	
Hanover Int	Como Int (NOPT)	DR 320° and CBP LOC crs	2700	Supplementary charting information: Hold W, 1 minute, right turns, 096° Inbnd. Chart 1150' trees located 40°00'25" N., 82°45'35" W. TDZ elevation, 812'.
APE VORTAC	Como Int (NOPT)	APE R 186° and CBP LOC crs.	2700	

Procedure turn N side of crs, 096° Outbnd, 276° Inbnd, 2700' within 10 miles of Como Int.
FAF, Como Int. Final approach crs, 276°. Distance FAF to MAP, 6 miles.
Minimum altitude over Como Int, 2700'.
NOTES: (1) ASR. (2) Inoperative table does not apply to HIRLs Runway 28R.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-28R	1360	1	548	1360	1	548	1360	1	548	1360	1¼	548
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1360	1	544	1360	1	544	1360	1½	544	1380	2	564
A	Standard.		T 2-eng. or less—RVR 24, Runways 10L and 28L; Standard all other runways.				T over 2-eng.—RVR 24, Runways 10L and 28L; Standard all other runways.					

City, Columbus; State, Ohio; Airport name, Port Columbus International; Elev., 816'; Facility, I-CBP; Procedure No. LOC (BC) Runway 28R, Amdt. Orig.; Eff. date, 30 Jan. 69

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.6 miles after passing LOM.
CLT VORTAC	LOM	Direct	2300	Turn left, climb to 3000' on FML VORTAC R 007° to Mount Holly Int and hold; or, when directed by ATC, turn right, climb to 2300' on FML VORTAC R 007° to Fort Mill VORTAC and hold.
Fort Mill VORTAC	Clover Int	Direct	2300	
Clover Int	LOM (NOPT)	Direct	2100	
York Int	Clover Int	Direct	2300	
Bradley Int	LOM	Direct	3000	
Mount Holly Int	LOM	Direct	3000	Supplementary charting information: Mount Holly Int hold N, 1 minute, left turns, 187° Inbnd. FML VORTAC hold S, 1 minute, right turns, 006° Inbnd. REIL Runway 36. TDZ elevation, 717'.
Bethany Int	LOM	Direct	2300	

Procedure turn N side of crs, 230° Outbnd, 050° Inbnd, 2300' within 10 miles of CL LOM.
FAF, CL LOM. Final approach crs, 050°. Distance FAF to MAP, 4.6 miles.
Minimum altitude over LOM, 2100'.
MSA: 000°-090°—3000'; 090°-180°—2300'; 180°-270°—2900'; 270°-360°—2900'.

NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-5	1200	RVR 40	483	1200	RVR 40	483	1200	RVR 40	483	1200	RVR 50	483
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1220	1	472	1220	1	472	1220	1½	472	1300	2	552
A	Standard.		T 2-eng. or less—RVR 24, Runway 5; Standard all other runways.				T over 2-eng.—RVR 24, Runway 5; Standard all other runways.					

City, Charlotte; State, N.C.; Airport name, Douglas Municipal; Elev., 748'; Facility, CL; Procedure No. NDB(ADF) Runway 5, Amdt. 21; Eff. date, 30 Jan. 69; Sup. Amdt. No. 20; Dated, 6 Jan. 68

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

Crescent Beach, S.C.—Myrtle Beach, NDB (ADF) Runway 23, Orig., 27 June 1968, canceled, effective 30 Jan. 1969.

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 917'; LOC 4.6 miles after passing LOM.
CLT VORTAC	LOM	Direct	2300	Turn left, climb to 3000' on FML VORTAC R 007° to Mount Holly Int and hold; or, when directed by ATC, right turn, climb to 2300' on R 007° to FML VORTAC and hold.
Fort Mill VORTAC	Clover Int	Direct	2300	
Clover Int	LOM (NOPT)	Direct	2100	
Union Int	York Int	Direct	2300	
Bradley Int	LOM	Direct	3000	
Mount Holly Int	LOM	Direct	3000	Supplementary charting information: Mount Holly Int, hold N, 1 minute, left turns, 187° Inbnd. FML VORTAC hold S, 1 minute, right turns, 006° Inbnd. REIL Runway 36. LOC back crs unusable. Front crs unusable beyond 75° either side of centerline. TDZ elevation, 717'.
Fort Mill VORTAC	LOM	Direct	2300	
Bethany Int	LOM	Direct	2300	
York Int	Clover	Direct	2300	

Procedure turn N side of crs, 230° Outbnd, 050° Inbnd, 2300' within 10 miles of CL LOM.
FAF, CL LOM. Final approach crs, 050°. Distance FAF to MAP, 4.6 miles.
Minimum glide slope interception altitude, 2300'. Glide slope altitude at OM, 2090'; at MM, 917'.
Distance to runway threshold at OM, 4.6 miles; at MM, 0.5 mile.
MSA: 000°–090°—3000'; 090°–180°—2300'; 180°–270°—2900'; 270°–360°—2900'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-5	917	RVR 24	200	917	RVR 24	200	917	RVR 24	200	917	RVR 24	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-5	1080	RVR 24	363	1080	RVR 24	363	1080	RVR 24	363	1080	RVR 40	363
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1220	1	472	1220	1	472	1220	1¼	472	1300	2	552
A	Standard.		T 2-eng. or less—RVR 24, Runway 5; Standard all other runways.				T over 2-eng.—RVR 24, Runway 5; Standard all other runways.					

City, Charlotte; State, N.C.; Airport name, Douglas Municipal; Elev., 748'; Facility, I-CLT; Procedure No. ILS Runway 5, Amdt. 22; Eff. date, 30 Jan. 69; Sup. Amdt No. 21; Dated, 6 Jan. 68

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH 507'; LOC 3.9 miles after passing SL LOM.
McCoy Int	SL LOM	Direct	3200	Climbing right turn to 2500' on SE crs of ILS within 10 miles of SL LOM.
Crabtree Int	Scio Int	Direct	3000	
Scio Int	SL LOM (NOPT)	Direct	1600	Supplementary charting information: LRCO. Chart Turner Int.
CVO VOR	Scio Int	Direct	3000	

#Procedure turn S side of crs, 129° Outbnd, 309° Inbnd, 2500' within 10 miles of SL LOM.
FAF, SL LOM. Final approach crs, 309°. Distance FAF to MAP, 3.9 miles.
Minimum glide slope Interception altitude, 1500'. Glide slope altitude at OM, 1490'; at MM, 438'.
Distance to runway threshold at OM, 3.9 miles; at MM, 0.6 mile.
MSA: 000°-090°—6100'; 090°-180°—5800'; 180°-270°—4800'; 270°-360°—3000'.
NOTE: Final approach from holding pattern at SL LOM not authorized, procedure turn required.
%IFR departure procedures: Takeoff Runways 31 and 34 turn right, Runway 16 turn left; climb direct to SL LOM before proceeding on crs.
#Procedure turn may commence at Turner Int.
*Sliding scale not authorized.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	VIS
S-31	507	¾	300	507	¾	300	507	¾	300	NA
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	
S-31*	920	1	713	920	1	713	920	1¼	713	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	1000	1	793	1000	1¼	793	1000	1½	793	NA
A	800-2.		T 2-eng. or less—Runways 34, 31, & 13, Standard; Runway 16, 500-1%.				T over 2-eng.—Runways 34, 31, & 13, Standard; Runway 16, 500-1%.			

City, Salem; State, Oreg.; Airport name, McNary Field; Elev., 207'; Facility, I-SLE; Procedure No. ILS Runway 31, Amdt. 9; Eff. date, 30 Jan. 69; Sup. Amdt. No. 8; Dated, 21 Nov. 68

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

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

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure authorized for such airport by the Administrator. Initial approach minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at Pilot's discretion if it appears desirable to discontinue the approach. Except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

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

From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Notes
000°	360°	0-15	*2300									1. Descend aircraft after passing FAF.
000°	105°	15-30	3000									2. Runway 18 FAF 6 miles from threshold. Minimum altitude over 2-mile Radar Fix, 1300'. TDZ elevation, 747'.
105°	260°	15-30	2300									3. Runway 23 FAF 6 miles from threshold. Minimum altitude over 2-mile Radar Fix, 1300'. TDZ elevation, 748'.
260°	360°	15-30	3000									4. Runway 36 FAF 6 miles from threshold. Minimum altitude over 3-mile Radar Fix, 1380'. TDZ elevation, 726'.
												5. Runway 5 FAF 6 miles from threshold. Minimum altitude over 2-mile Radar Fix, 1160'. TDZ elevation, 717'.
												NOTES: MTI required for all surveillance approaches. REIL Runway 36. Inoperative component table does not apply to HIRL Runways 18 and 23.

All airways segments 0-35 miles published MEA or sector altitudes whichever is lower.
All bearings and distance are from radar site on Douglas Municipal Airport with sector azimuths progressing clockwise.
*Radar control will provide 1000' vertical clearance within a 3-mile radius of the following towers: 1932', 10 miles NE, 2049', 13 miles E, 1733', 16.5 miles W, 1866', 10 miles NW.

Missed approach:
Runway 18—Climb to 2300' direct to FML VORTAC, hold S, 1 minute, right turns, 006° Inbnd.
Runway 23—Climb to 2300' direct to CLT LOM, hold SW, 1 minute, left turns, 050° Inbnd.
Runway 36—Climb to 2600' on FML VORTAC R 007° to Mount Holly Int, hold N, 1 minute, left turns 187° Inbnd.
Runway 5—Left turn climb to 2600' on FML VORTAC R 007° to Mount Holly Int, hold N, 1 minute, left turns, 187° Inbnd.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-18	1160	1	413	1160	1	413	1160	1	413	1160	1	413
S-23	1160	1	412	1160	1	412	1160	1	412	1160	1	412
S-36	1060	RVR 40	334	1060	RVR 40	334	1060	RVR 40	334	1060	RVR 50	334
S-5	1080	RVR 24	363	1080	RVR 24	363	1080	RVR 24	363	1080	RVR 50	363
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1220	1	472	1220	1	472	1220	1½	472	1300	2	552
A	Standard.			T 2-eng. or less—RVR 24, Runway 5; Standard all other runways.			T over 2-eng.—RVR 24, Runway 5; Standard all other runways.					

City, Charlotte; State, N.C.; Airport name, Douglas Municipal; Elev., 748'; Facility, Charlotte Radar; Procedure No. Radar-1, Amdt. 7; Eff. date, 30 Jan. 69; Sup. Amdt. No. Radar 1, Amdt. 6; Dated, 30 Sept. 67

These procedures shall become effective on the dates specified therein.

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

Issued in Washington, D.C., on Dec. 24, 1968.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 69-171; Filed, Jan. 16, 1969; 8:45 a.m.]

Chapter V—National Aeronautics and Space Administration

PART 1209—BOARDS AND COMMITTEES

Subpart 2—Source Evaluation Boards

1. Subpart 1209.2 is deleted in its entirety and reserved.

T. O. PAINE,
Acting Administrator.

[F.R. Doc. 69-626; Filed, Jan. 16, 1969; 8:47 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter X—Office of Foreign Direct Investments, Department of Commerce

PART 1025—SETTLEMENT PROCEDURES

PART 1040—COMPLIANCE PROCEDURES: REPORTS, ADVISORY OPINIONS, AND ENFORCEMENTS

PART 1050—MISCELLANEOUS RULES

Notice is given that the Office of Foreign Direct Investments, acting under the authority conferred in E.O. 11387 and pursuant to Department of Commerce Order 184-A, hereby amends Chapter X of Title 15 of the Code of Federal Regulations by adding new Parts 1025, 1040, and 1050 thereto.

The purpose of these parts is to set forth and establish general statements of policy and rules of agency organization, procedure, and practice for the administration of the Office's enforcement program. Part 1025 sets forth procedures and rules governing voluntary settlements; Part 1040 sets forth procedures and rules governing compliance reports and advisory opinion facilities available to respondents to orders under Part 1030; and Part 1050 sets forth various miscellaneous rules applicable to appearances, filing of documents, service of documents, witnesses, and ex parte communication.

These amendments shall become effective thirty (30) days following the date of publication in the FEDERAL REGISTER. Interested persons are invited to submit written comments or suggestions concerning the amendments, in duplicate, to the Chief Counsel, Legal Division, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230. All such communications received within thirty (30) days after publication of this notice in the FEDERAL REGISTER will be considered. The amendments may be further amended or withdrawn by publication in the FEDERAL REGISTER if the comments warrant such action; in the absence of such further comments or withdrawal, the amendments shall be effective as published.

The texts of Parts 1025, 1040, and 1050 are as follows:

PART 1025—SETTLEMENT PROCEDURES

Subpart A—General Statement of Policy on Administrative Enforcement

Sec.

Subpart B—Informal, Voluntary Settlement

Subpart C—Consent Agreement Policy and Procedures

AUTHORITY: The provisions of this Part 1025 issued pursuant to sec. 5 of the Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47; Department Order 184-A, Jan. 1, 1968, 33 F.R. 54.

Subpart A—General Statement of Policy on Administrative Enforcement

§ 1025.111 General policy.

(a) Although the act of October 6, 1917, section 5(b)(3) and section 17, as amended (12 U.S.C. 95a(3), 50 U.S.C. App. 5(b)(3), 17), among other provisions of law, provides both criminal and civil procedures to enforce regulations, conditions of exemptions therefrom, orders, and other agency actions relating to the Foreign Direct Investments Program (hereinafter referred to in this part as the "FDIP"), it is the general policy of the Office[1] to utilize administrative or civil, rather than criminal, enforcement procedures where the person (referred to hereinafter in this part as the "party") who has failed to comply with the regulations, conditions or exemptions therefrom, orders, or other agency actions relating to the FDIP, establishes that:

(1) The party's noncompliance was unintentional;

(2) The party acted at all times in good faith; and

(3) The party has cooperated with the Office in ascertaining the facts, and has not attempted to conceal or falsify information.

(b) Where the criteria of paragraph (a) of this section are not met, the Office may utilize administrative and/or judicial enforcement procedures.

§ 1025.112 Factors bearing on intent, etc.

(a) The Office will ordinarily consider the following, among other things, as relevant in determining that the conditions of § 1025.111(a) have been met:

(1) That the party has voluntarily advised the Office, prior to notification of an investigation in respect thereto, that an unintentional compliance problem may exist, and has furnished the Office with full particulars thereof;

(2) That the party has submitted affidavits establishing facts which show that noncompliance was unintended, that it was the result of circumstances which could not reasonably have been foreseen, and that all available steps to avoid noncompliance and to correct its effects were promptly taken.

(b) The Office may, however, conduct an independent inquiry to determine whether noncompliance was unintentional and unforeseeable, and that available steps to avoid it and to correct its effects were promptly taken.

Subpart B—Informal, Voluntary Settlement

§ 1025.211 Policy.

When the Office has information indicating that a party may inadvertently have failed or may be failing to comply with the FDIP, the Office may, if it believes that such procedure will not prejudice the public interest, afford the party the opportunity to have the matter disposed of on an informal, voluntary administrative basis.

§ 1025.212 Conditions.

In determining whether such informal administrative action will not prejudice the public interest, the Office will consider: (1) The nature of the noncompliance; (2) the prior conduct of the party; and (3) other factors, including adequate assurance of the party's voluntary future compliance. Generally, the Office will agree to dispose of compliance matters on the basis of an informal settlement where the noncompliance is an isolated, inadvertent occurrence involving a relatively insubstantial amount of money and the party assures the Office that it has taken or will take prompt, adequate steps to undo the violation, correct its effects, and prevent its recurrence.

§ 1025.213 Form.

(a) Disposition of a matter by an informal settlement will be in the form of an exchange of agreed-upon letters passing between the party and the Director or Deputy Director of the Compliance Division. The Office will only settle compliance matters in writing in such form.

(b) The letter from the party to the Office will set forth the pertinent circumstances relating to and constituting the noncompliance, the steps taken to undo, correct, and prevent recurrence of noncompliance, and other matters agreed upon by the party and Office. The letter from the Office to the party will state the intention of the Office, based on the representations in the party's letter, to close the matter; the power will be expressly reserved to reopen the matter should the public interest so require.

§ 1025.221 Formal procedures.

When the Office, in its discretion, determines that informal disposition of a

[1] As used in Parts 1025, 1040, and 1050, the "Office" means the Office of Foreign Direct Investments, U.S. Department of Commerce. The term "person" is defined in § 1000.307 (a).

compliance matter is inappropriate, consent settlement procedures are available, on a formal basis, as provided in Subpart C of this part.

Subpart C—Consent Agreement Policy and Procedures

§ 1025.311 Preliminary notice of proposed formal proceeding.

Where time, the nature of the matter involved, and the public interest permit, the Office will notify the party (1) of its intention to institute a formal proceeding against him and (2) that he will be afforded an opportunity to confer with the agency staff and to submit an appropriate consent agreement proposal for consideration by the Office. The party may appear personally or he may be represented by a person who has entered an appearance under § 1050.101 of this chapter.

§ 1025.312 Conditions of administrative settlement.

The Office will consider each case of noncompliance individually, on the basis of all relevant facts and circumstances, including any mitigating or extenuating factors. Depending upon the circumstances of the case, administrative settlement of compliance matters by a consent agreement may entail one or more of the remedies set forth in § 1030.514 of this chapter.

§ 1025.313 Form of agreement.

(a) Every consent agreement shall contain an appropriate form of order or judgment to be entered, an admission of all jurisdictional facts, and express waivers of further procedural steps, of any requirement of findings, and of all rights to seek any form of judicial or appellate review or otherwise to challenge or contest the content, validity, or finality of the order. In addition, the agreement may contain a statement that the signing thereof is for settlement purposes only and does not constitute an admission by the party that the law has been violated.

(b) The Office will determine whether the public interest would be better served by an agreement providing for an administrative consent order or a judicial consent judgment. Among the factors which the Office will ordinarily consider in making such determination are: (1) The nature and gravity of the alleged violation, (2) the prior conduct of the respondent, and (3) the likelihood that subsequent enforcement proceedings will be necessary.

§ 1025.321 Nonconsent procedures.

In cases of noncompliance where an administrative disposition by consent is not appropriate or feasible, the Office will institute a formal administrative proceeding in respect thereto, as provided in Part 1030.

PART 1040—COMPLIANCE PROCEDURES: REPORTS, ADVISORY OPINIONS, AND ENFORCEMENT

Subpart A—Compliance Reports

Sec.
1040.111 Compliance reports following Part 1030 orders.
1040.112 Interim compliance reports.
1040.113 Modification, extension.
1040.114 Noncompliance with reporting requirements.
1040.121 Comment on report.

Subpart B—Advisory Opinions on Compliance

1040.211 Request for opinion.
1040.212 Response by Office.
1040.213 Form of advisory opinion.
1040.214 Advisory opinion during compliance investigation.
1040.221 Revocation.
1040.222 Reliance.

Subpart C—Enforcement

1040.311 Enforcement.

AUTHORITY: The provisions of this Part 1040 issued pursuant to sec. 5 of the Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47; Department Order 184–A, Jan. 1, 1968, 33 F.R. 54.

Subpart A—Compliance Reports

§ 1040.111 Compliance reports following Part 1030 orders.

(a) Whenever in a proceeding under Part 1030, an order is entered requiring the respondent to refrain from or to undertake any future act or practice, the Office will further require the respondent to file a compliance report with the Office. Such requirement will be by action of the Director or Deputy Director of the Compliance Division pursuant to § 1020.121(a)(2) of this chapter.

(b) Such report shall be in writing, signed by the respondent or an officer thereof, be made under oath or affirmation, and be filed with the Office, Attention: Director of Compliance Division.

(c) Such report shall set forth in detail the manner and form of the respondent's compliance with each of the provisions of the order of the presiding officer.

(d) Such report shall be filed within twenty (20) days after the decision of the presiding officer becomes final (see § 1030.515 of this chapter), except as otherwise provided under § 1040.113. Further and subsequent such reports may also be required.

§ 1040.112 Interim compliance reports.

The Office, acting through the Director of Deputy Director of the Compliance Division, may further order the respondent to file an interim report stating whether and how the respondent intends to comply with the order of the presiding officer. Such order may require that the report be filed before or after the date that the order of the presiding officer becomes effective.

§ 1040.113 Modification, extension.

The provisions of §§ 1020.122–1020.123 of this chapter shall be applicable to compliance report requirements.

§ 1040.114 Noncompliance with reporting requirements.

In cases of failure to comply with compliance report requirements, the Office may initiate or recommend appropriate action (see § 1020.141 of this chapter).

§ 1040.121 Comment on report.

The Office will review compliance reports. The Director or Deputy Director of the Compliance Division may comment in writing to the respondent in respect to whether the actions set forth in such a report evidence compliance with the order of the presiding officer.

Subpart B—Advisory Opinions on Compliance

§ 1040.211 Request for opinion.

Any respondent subject to an order issued under Part 1030 may request advice from the Office as to whether a proposed course of action, if pursued by it, will constitute compliance with such order. The request for advice should be submitted in writing to the Office, Attention: Director of Compliance Division; and should include full information regarding the proposed course of action.

§ 1040.212 Response by office.

On the basis of the facts submitted as well as other information properly available to it, the Office will, where it is practicable and otherwise appropriate, inform the respondent whether the proposed course of action, if pursued, would constitute compliance with the order. The Office expressly reserves the power to take such other and/or additional action as the public interest may require in the premises.

§ 1040.213 Form of advisory opinion.

The response of the Office, under § 1040.212, will be in writing, signed by the Director or Deputy Director of the Compliance Division.

§ 1040.214 Advisory opinion during compliance investigation.

Once the Office has instituted an investigation to determine whether a respondent is in violation of an outstanding order issued against it, the Office will ordinarily consider it inappropriate to give the respondent an advisory opinion on the subject. No request for an advisory opinion, in such circumstances, will cause the Office to discontinue such investigation.

§ 1040.221 Revocation.

The Office may, at any time, reconsider any advice or comment made under § 1040.121 or § 1040.213, and rescind, alter, or revoke the same. If it does so, the Office will, whenever possible, give prompt notice to the respondent.

§ 1040.222 Reliance.

(a) When the Office believes that a respondent has violated an order issued against it under Part 1030, but the respondent establishes to the Office that it acted in actual, properly warranted, and good faith reliance upon written advice

to it under § 1040.121 or § 1040.213, then the Office will not proceed or recommend any proceeding against such respondent in respect to such possible violation without first giving respondent notice under § 1040.221 and an opportunity to discontinue the questioned practice or transaction and to correct the effects thereof.

(b) If the respondent effects such discontinuance and correction promptly and fully, and satisfies the Office that it is complying with the requirements of the FDIP in regard to the matter, then the Office will take no further action.

Subpart C—Enforcement

§ 1040.311 Enforcement.

When the Office has information indicating that a respondent has failed or is failing to comply with the provisions of an order entered against the respondent under Part 1030, the Office may institute or recommend a civil or criminal enforcement proceeding (see, e.g., 50 U.S.C. App. 5(b) (3), 17) or a further administrative proceeding under Part 1030 of this chapter.

PART 1050—MISCELLANEOUS RULES

Sec.

AUTHORITY: The provisions of this Part 1050 issued pursuant to Sec. 5 of the Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47; Department Order 184-A, Jan. 1, 1968, 33 F.R. 54.

§ 1050.101 Appearances.

(a) *Qualifications.* (1) Members of the bar of a Federal Court or of the highest court of any State or territory of the United States are eligible to practice before the Office in any proceeding under Part 1020 or Part 1030.

(2) Any individual or member of a partnership involved in any such proceeding may appear on behalf of himself or of such partnership upon adequate identification. A corporation or association may be represented by an officer thereof.

(b) *Notice of appearance.* Any person desiring to appear before the Office on behalf of a person or party shall file a written notice of his appearance, stating the basis of his eligibility under this section. No other application shall be required for admission to practice, and no register of attorneys will be maintained.

§ 1050.102 Standards of conduct.

(a) All persons practicing before the Office shall conform to the standards of ethical conduct required of practitioners in the courts of the United States. Accountants who prepare reports or other documents for submittal to the Office shall conform to the standards of ethical conduct prescribed by the State Board of Accountancy or other licensing authority for the State in which such accountant maintains his principal place of business.

(b) If the Office has reason to believe that any person is not conforming to such standards, or that he has been otherwise guilty of conduct warranting disciplinary action, the Office may issue an order requiring such person to show cause why he should not be suspended or disbarred from practice before, or from the preparation of reports or other documents for submittal to, the Office. The alleged offender shall be granted due opportunity to be heard and may be represented by counsel. Thereafter, if warranted by the facts, the Office may issue against the person an order of reprimand, suspension, disbarment, or other appropriate sanction.

§ 1050.103 Requirements as to form and filing of documents.

(a) *Filing.* In formal administrative proceedings under Part 1030, except as otherwise provided, all documents submitted to the Office shall be addressed to the presiding officer designated in respect thereto. Where practicable, such documents shall be filed with him; otherwise, they shall be filed with the Clerk (see § 1050.104). Informational applications or requests, however, may be submitted directly to the official in charge thereof or to the Director of the appropriate Division.

(b) *Title.* Documents shall clearly show the file or docket number and title of the matter in connection with which they are filed.

(c) *Copies.* Five copies of all formal documents shall be filed, unless otherwise specified. Informal applications and correspondence should be submitted in the form of an original and two copies thereof.

(d) *Form.* (1) Documents shall be printed, typewritten, or otherwise processed in permanent form.

(2) It is requested that documents be on paper approximately 8½ inches by 11 inches, bound or stapled on the left side.

(e) *Signature.* (1) One copy of each document filed shall be signed by a person who has entered an appearance (or in informal matters by a person qualified to do so).

(2) Signing a document constitutes a representation by the signer that he has read it; that to the best of his knowledge, information, and belief, the statements made in it are true; and that it is not interposed for delay.

§ 1050.104 Clerk.

The Director of the Office shall designate an employee of the Office to serve as clerk of the Office. The Clerk shall, in general, perform the functions of the Clerk of a district court, in respect to proceedings under Part 1030 and where otherwise appropriate. Papers may be filed with him; he shall accept and record receipt of formal papers; he shall enter the orders of presiding officers and cause them to be served upon parties. Where it is appropriate, the Clerk shall sign documents and other papers in the name of the Office. Nothing contained in this section shall be deemed to preclude the Clerk from performing any other functions within the Office.

§ 1050.105 Time computation.

Computation of any period of time prescribed or allowed under Parts 1030 or 1040 shall begin with the first business day following that on which the act, event, or development initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday or national holiday, or other day on which the Office is closed, the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays, and national holidays counted, is 5 days or less, each Saturday, Sunday, and any such holiday shall be excluded from the computation. When such period of time, with the intervening Saturdays, Sundays, and national holidays counted, exceeds 5 days, each of the Saturdays, Sundays, and such holidays shall be included in the computation.

§ 1050.106 Service.

(a) *By the Office.* (1) Service of notices, orders, and other processes of the Office may be effected as follows:

(i) *By registered or certified mail.* A copy of the document shall be addressed to the person to be served, at its residence, office, or place of business, and sent thereto by registered or certified mail; or

(ii) *By delivery to an individual.* A copy thereof may be delivered to the natural person to be served, or to a member of the partnership to be served, or to any officer or director of the corporation or unincorporated association to be served; or

(iii) *By delivery to an address.* A copy thereof may be left at the office or place of business of the person, or it may be left at the residence of the person or of a member of the partnership or of an officer or director of the corporation or unincorporated association to be served.

(2) All other documents may be similarly served, or they may be served by ordinary first-class mail.

(b) *By other parties.* Service of documents by parties other than the Office shall be by delivering copies thereof as follows: Upon the Office, by personal delivery or delivery by first-class mail to the Clerk; upon any other party, by delivery to the party, as specified in paragraph (a) of this section.

(c) *Service on attorney of party.* When a party is represented by a person qualified pursuant to § 1050.101(a), and such representative has filed a notice of appearance as required by § 1050.101(b), any notice, order, or other process or communication required or permitted to be served upon a person or party may be served upon such representative in lieu of any other service.

(d) *Proof of service.* (1) When service is by registered, certified, or ordinary first class, it is complete upon delivery of the document by the post office to the person served.

(2) The return post office receipt for a document registered or certified and mailed, or the verified return or certifi-

cate by the person serving the document by personal delivery, shall be proof of the service of the document. All documents served by ordinary mail shall have appended thereto a certificate of service, setting forth the manner of said service, including the address of any person so served.

§ 1050.107 Fees.

(a) *Witnesses.* Any person compelled to appear in person in response to compulsory process shall, upon his application therefor, be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) *Responsibility.* The fees and mileage referred to in this section shall be paid by the party at whose instance the witness appears.

§ 1050.108 Ex parte communications.

(a) In a formal administrative proceeding, no person not employed by the Office and no employee or agent of the Office who performs any investigative or prosecuting function in connection with the proceeding, shall communicate ex parte, directly or indirectly, with any person involved in the decisional process in such proceeding, with respect to the merits of that or a factually related proceeding.

(b) In a formal administrative proceeding, no person involved in the decisional process of such proceeding shall communicate ex parte, directly or indirectly, with any person not employed by the Office, or with any employee or agent of the Office who performs any investigative or prosecuting function in connection with the proceedings, with respect to the merits of that or a factually related proceeding.

(d) In a formal administrative proceeding, if an ex parte communication is made to or by any employee involved in the decisional process, in violation of paragraph (a) or (b) of this section, such employee shall promptly inform the Office of the substance of such communication and the circumstances thereof. The Office will take such action thereon as it may consider appropriate.

CHARLES E. FIERO,
Director, Office of Foreign Direct Investments.

JANUARY 14, 1969.

[F.R. Doc. 69-651; Filed, Jan. 16, 1969; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Advertising by Manufacturers in an Independently Published Periodical

§ 15.314 Advertising by manufacturers in an independently published periodical.

(a) The Federal Trade Commission was asked to express an opinion with respect to the legality of payment by manufacturers for the purchase of advertising space in a periodical published by a firm which has no connection whatever with any retail customer of such manufacturers and which will supply or otherwise make the periodical available without cost to all retailers.

(b) The advisory opinion noted that payments by a manufacturer for the purchase of advertising space in a periodical published by a firm which is not owned or controlled by, or in any way directly or indirectly affiliated with, any customer of that manufacturer, or group or class of such customers, do not violate sections 2 (d) or (e) of the amended Clayton Act where no discriminatory benefit is conferred by such payments on a particular customer, or class or group of customers, over competitors. The periodical will be given nationwide distribution and will be supplied and otherwise made available without cost to all industry retailers; the periodical is not designed to be usable only by particular retailers, or classes or groups of retailers; every effort will be made to distribute the periodical as broadly as possible among industry retailers; and distribution will not be limited to any particular retailer, or group or class of industry retailers.

(c) The Commission advised that if the periodical is made available, in a practicable business sense, to all competing customers of a participating manufacturer, then no objection would be raised to payments by that manufacturer for advertising space therein. Further, that appropriate measures should be taken by the publisher to advise participating manufacturers that the periodical will serve to supplement, not supplant, their usual methods of notifying retail customers regarding the availability of their sales programs and that advertising the details of such program in the periodical will not relieve them from this statutory obligation.

(38 Stat. 717, as amended; 15 U.S.C. 41-58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: January 16, 1969.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 69-666; Filed, Jan. 16, 1969; 8:50 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Foreign Origin Disclosure of Wearing Apparel Partly Made in a Foreign Country

§ 15.315 Foreign origin disclosure of wearing apparel partly made in a foreign country.

(a) The Commission rendered an advisory opinion in regard to the question of whether it is necessary to disclose the origin of textile products processed in Puerto Rico and the Dominican Republic from fabric produced in the United States, and thereafter exported to the mainland United States.

(b) Specifically, the Commission ruled upon the following two questions:

(1) Must a semimanufactured product with less than 50 percent of the value added in a foreign country be labeled in any way before entering the U.S. territory?

(2) If said product is then finished in Puerto Rico and shipped for distribution in the U.S. mainland, can it be labeled "Made in U.S.A."?

(c) In response to the first question, the Commission said that it will not be necessary to disclose the foreign country of origin where less than 50 percent of the value is added to the product insofar as the laws of the Commission are concerned.

(d) In regard to the second question, the Commission expressed the opinion that it would be improper to label such a product as "Made in U.S.A." because this would constitute an affirmative misrepresentation that the product is made in its entirety in the United States.

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: January 16, 1969.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 69-667; Filed, Jan. 16, 1969; 8:50 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Foreign Origin Disclosure of Imported Bearings

§ 15.316 Foreign origin disclosure of imported bearings.

(a) The Commission rendered an advisory opinion in regard to the proper marking of imported bearings.

(b) According to the facts presented in the matter, the top of the container in which the bearings will be packaged will carry the following statement: "The (word of a particular foreign country) Bearing". Also printed on the top of the container is the statement: "Made in (country of origin)". Etched on the outer race of each bearing is the inscription of the name of the foreign country of origin.

(c) Most of the bearings are sold to domestic manufacturers who use said bearings in their manufacture of heavy earth moving equipment and farm machinery. The bearings normally represent less than 2 percent of the total cost of the finished equipment. Domestic manufacturers who use the bearings in their production of machinery and equipment compete with one another for both domestic and foreign markets.

(d) Specifically, the following two questions were raised:

(1) Are the bearings marked with sufficient clarity to disclose they are manufactured in a certain foreign country?

(2) Is it necessary for the manufacturers who use the imported bearings in their machinery and equipment to disclose the country of origin of the bearings?

(e) In response to the first question, the Commission said that its examination of the markings revealed they were adequately marked to show their foreign country of origin.

(f) With respect to the second question, the Commission said that it would not be necessary for the manufacturers who use the bearings in their machinery and equipment to disclose the foreign country of origin of the bearings.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: January 16, 1969.

By direction of the Commission.

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

[F.R. Doc. 69-668; Filed, Jan. 16, 1969; 8:51 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-332; Order 378]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Uniform System of Accounts; Outside Consultative and Professional Services; Annual Report Forms 1 and 2

JANUARY 7, 1969.

On October 31, 1967, the Commission issued a notice of proposed rulemaking (32 F.R. 15434, November 4, 1967) proposing to amend the schedule "Charges for Professional Services", page 354, of F.P.C. Form No. 1 and F.P.C. Form No. 2. Those schedules currently require the reporting of specified information on any outside professional service for which payment is made in the amount of (1) $5,000 by a Class B utility, (2) $10,000 by a Class A utility having operating revenues under $25 million and (3) $25,000 by Class A utilities having operating revenues of $25 million or more. The proposed revision would have required reporting on all outside services of a professional nature procured by Classes A and B utilities, regardless of the amount of payment.

The Commission received comments from 276 respondents, 197 in support and 79 in opposition to the proposed revision. The 197 respondents who recommended either adoption of the proposed revision or an expanded version thereof included Senator Lee Metcalf, the Borough of Chambersburg, Pa., the Scenic Hudson Preservation Conference, 51 local unions representing approximately 495,000 members, 10 electric cooperatives and the Kansas City Power and Light Co., a public utility and licensee. The 79 respondents in opposition included the Edison Electric Institute, the Independent Natural Gas Association of America, four combination electric and gas companies, 58 responses representing 70 electric utilities, and 15 responses representing 25 natural gas companies.

The Bureau of the Budget held conferences on November 7, 1968 and December 19, 1968, pursuant to the Federal Reports Act, for the presentation of views by the Commission and the reporting utilities. The rule as modified was thereupon approved by the Budget Bureau.

It is our conclusion, after analyzing the full range of the comments received, that the proposed revision should be adopted in a modified form. In arriving at this judgment we recognized that the benefits to be gained by more extensive reporting of payments for outside consultative and other professional services must be balanced against the burdens that would be imposed upon the reporting utilities and the staff of the Commission. We believe that an appropriate accommodation can be reached by modifying the proposed requirement to require detailed reporting of payments by Class A companies of $10,000 or more and payments by Class B companies of $5,000 or more and to permit the reporting of only the name of the payee, the nature of the services rendered, and the amount of the payment for all remaining payments in excess of $600 made to an individual, group, or partnership. Payments to corporations by Class A companies of less than $10,000 and by Class B companies of less than $5,000 need not be reported. In response to some of the comments received, we have excluded from the reporting requirement payments made for medical and related services.

We cannot accept the suggestions that the additional information which will be elicited as a result of this expanded reporting requirement serves no useful purpose. If the Commission's rate and accounting surveillance programs are to be effective it is imperative that schedules be maintained in sufficient detail so as to enable the Commission's staff to isolate areas of discrepancy without the need to undertake a full scale audit. This is particularly so with respect to outside consultative and professional services in view of the breadth of the activities that are included within that classification. In our view the Commission, and the public, should be in a position to readily ascertain the amounts and nature of such payments particularly as they relate to public relations and legislative services. While we recognize that the specific information which will be required to be reported under the revised forms could be obtained by the staff of the Commission through compliance audits or by issuing specific requests to the individual utilities, neither of those procedures would facilitate the Commission's surveillance program. Moreover, we believe that we have an obligation to see to it that the public generally has such information readily at its disposal. That obligation can be discharged only by requiring the systematic filing of such information on prescribed forms.

There is no question but that the adoption of this expanded reporting requirement will impose an added burden on the reporting companies. However, the Internal Revenue Service already requires any person engaged in a trade or business to report to it payments of $600 or more for services paid to outside contractors, including consultants and other professionals. Under that requirement companies must report the name and address of the payee and the amount paid. The only additional information which we are requesting is a brief description (e.g., legal, engineering, etc.) of the nature of the services rendered. Adoption of the rule as modified will impose the minimum additional burden on reporting utilities consistent with insuring that there is made available to the Commission and to the public all relevant information in a meaningful form.

The Commission further finds: (1) The notice and opportunity to participate in this rulemaking proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments, suggestions, and arguments in the manner as described above, are consistent and in accordance with all procedural requirements therefor as prescribed in the Administrative Procedure Act (5 U.S.C. 553).

(2) The public should have made available to it more specific information concerning the expenditures by natural gas companies, public utilities, and licensees, concerning outside consultative and professional services.

(3) The amendment here prescribed will supply that information and is necessary and appropriate for the administration of the Federal Power Act and the Natural Gas Act.

The Commission, acting pursuant to the provisions of the Federal Power Act as amended, particularly sections 304 and 309 thereof (49 Stat. 855, 858; 16 U.S.C. 825c, 835h) and the Natural Gas Act, as amended, particularly sections 10 and 16 thereof (52 Stat. 826, 830; 15 U.S.C. 717i, 717o), orders:

(A) Effective for the reporting year 1969, the Commission's annual reports, FPC Form No. 1 and FPC Form No. 2, prescribed respectively by 141.1 of Subchapter D and 260.1 of Subchapter G, Chapter I, Title 18 of the Code of Federal Regulations, are amended with respect to the schedule "Charges for Professional Services",

(1) By revising the title of such schedule to read "Charges for Outside Professional and Other Consultative Services".

(2) By revising Instruction 1 of such schedule to read as follows:

1. For payments by Class A companies of $10,000 or more and payments by Class B companies of $5,000 or more, report the information specified below for all charges made during the year included in any account (including plant accounts) for outside consultative and other professional services, such as services concerning rate, management, construction, engineering, research, financial, valuation, legal, accounting, purchasing, advertising, labor relations, and public relations, rendered the respondent

under written or oral arrangements by any corporation, partnership, individual (other than for services as an employee or for payments made for medical and related services), or organization of any kind, including legislative services except for those which should be reported in Account 426.4, Expenditures for Certain Civic, Political and Related Activities.

For payments by Class A companies of less than $10,000 and in excess of $600 and payments by Class B companies of less than $5,000 and in excess of $600 to any one individual, group or partnership there shall be reported the name of the payee, the predominant nature of the services performed and the amount of payment.

(3) By revising Instruction 1(d) of such schedule to read as follows: "Total charges for the year detailing utility department and account charged;" and

(4) By deleting the word "professional" in Instruction 2.

(Secs. 304, 309, 49 Stat. 855, 858; 16 U.S.C. 825c, 825h; Secs. 10, 16 Stat. 826, 830; 15 U.S.C. 717i, 717o)

(b) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 69-592; Filed, Jan. 16, 1969; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

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

Carbofuran

A petition (PP 8F0711) was filed with the Food and Drug Administration by the FMC Corp., 100 Niagara Street, Middleport, N.Y. 14105, proposing the establishment of a tolerance of 0.1 part per million for residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl - 7 - benzofuranyl *N*-methylcarbamate) including its metabolite 2,3-dihydro-2,2-diemthyl-3-hydroxy - 7 - benzofuranyl *N*-methylcarbamate in or on the raw agricultural commodity corn grain.

Subsequently, the petitioner amended the petition to request a tolerance of 0.5 part per million for such residues in or on corn fodder and forage.

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

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that:

1. There is no reasonable expectation of residues of the insecticide or its metabolites in meat, milk, or eggs. The usage is classified in the category specified in § 120.6(a)(3).

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120) Part 120 is amended as follows:

1. Section 120.3(e)(5) is amended by alphabetically inserting in the list of pesticides two new items, as follows:

§ 120.3 **Tolerances for related pesticides.**

* * * * *

(e) * * *
(5) * * *

Carbofuran (2,3 - dihydro-2,2-dimethyl-7-benzofuranyl *N*-methylcarbamate).
Carbofuran metabolite (2,3-dihydro-2,2-dimethyl - 3 - hydroxy-7-benzofuranyl *N*-methylcarbamate).

* * * * *

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

§ 120.254 **Carbofuran; tolerances for residues.**

Tolerances are established for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl *N*-methylcarbamate) and its metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl *N*-methylcarbamate in or on the following raw agricultural commodities:

0.5 part per million in or on corn fodder and forage.

0.1 part per million in or on corn grain.

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

Dated: January 9, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-634; Filed, Jan. 16, 1969; 8:48 a.m.]

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

Coumaphos

A petition (PP 8F0678) was filed with the Food and Drug Administration by the Chemagro Corp., Post Office Box 4913, Kansas City, Mo. 64120, proposing the establishment of a tolerance of 0.1 part per million for residues of the insecticide coumaphos (*O,O*-diethyl *O*-3-choloro-4-methyl-2-oxo - 2H - 1 - benzopyran-7-yl phosphorothioate) in or on eggs.

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

Based on consideration given the data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes:

A. That the tolerance established by this order will protect the public health.

B. That residues of the cholinesterase-inhibiting oxygen analog of coumaphos may be present as a component of its residues and should be included in the tolerances. This applies to the tolerances already established as well as that added by this order.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 120 is amended as follows:

1. Section 120.3(e)(5) is amended by deleting the item "*O,O*-Diethyl *O*-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate" and by alphabetically inserting two new items, as follows:

§ 120.3 **Tolerances for related pesticide chemicals.**

* * * * *

(e) * * *
(5) * * *

Coumaphos (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate).
Coumaphos oxygen analog (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate).

* * * * *

2. Section 120.189 is revised to read as follows:

§ 120.189 **Coumaphos; tolerances for residues.**

Tolerances are established for residues of the insecticide coumaphos (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate) in or on raw agricultural commodities as follows:

1 part per million in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.5 part per million in milk-fat reflecting negligible residues in milk.

0.1 part per million in eggs.

(See also § 121.304 of this chapter.)

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

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

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: January 9, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-635; Filed, Jan. 16, 1969; 8:48 a.m.]

Title 23—HIGHWAYS

Chapter I—Bureau of Public Roads, Department of Transportation

[Docket No. 36]

PART 1—ADMINISTRATION OF FEDERAL AID FOR HIGHWAYS

Public Hearings and Location and Design Approval

On October 21, 1968, the Federal Highway Administration published a notice in the FEDERAL REGISTER (33 F.R. 15663) proposing the adoption of a new Part 3 "Public Hearings and Location and Design Approval." The notice requested that interested persons submit written comments by the close of business on November 22, 1968. On November 21, 1968, by notice published in the FEDERAL REGISTER (33 F.R. 17364 (1968)) the Administrator extended the time for filing comments to the close of business on December 13, 1968. More than 4,000 comments on the proposed regulation were received. Interested persons were also invited by the latter notice to present their views on the proposed regulation at an informal public hearing held in Washington, D.C., during the period December 16 through 20, 1968. Over 150 persons appeared to present their views orally. All comments received, oral and written, have been carefully considered in the formulation of the action taken herein. While the majority of the comments received supported the purposes of the proposal, many comments were received which opposed it or recommended substantial changes. A number of these comments warrant discussion.

A number of comments objected to the issue of the procedures in the form of a proposed new Part 3 and recommended instead that, if the procedures were to be issued at all, they be issued in the form of a Bureau of Public Roads Policy and Procedure Memorandum (PPM). This recommendation has been adopted. However, in view of the widespread public interest in the proposal, as evidenced by the large number of comments received, both in writing and at the public hearing, the Administration is convinced that the PPM should be given wide distribution and should be readily accessible to all affected persons. Accordingly, while the PPM will be printed and distributed in the usual manner, it is also being included in a new Appendix A to Part 1.

A large number of comments objected to the proposal on the grounds that it would destroy the present State-Federal relationship with respect to the Federal-Aid-Highway program. In particular, it was argued that by providing an appellate review by the Administrator, final highway decisionmaking would be transferred from the States to the Administrator. However, under the laws governing the Federal-Aid-Highway program, final approval authority concerning Federal participation is, and has always been, reserved to the Secretary of Transportation and this authority has consistently been exercised by the Administrator pursuant to a delegation of authority from the Secretary contained in § 1.37 of Title 23 of the Code of Federal Regulations.

The purpose of the proposal was to strengthen the role of the State in exercising its responsibilities to make initial decisions on highway location and design by ensuring an increased dialogue between the State highway departments and those persons affected by highway development. It was designed to help resolve controversies at the State and local level where they can be best dealt with. In recent years, more and more highway controversies have required the personal attention of the Administrator and the Secretary because the present coordination and hearing procedures did not provide for adequate public participation in the development of highway decisions. Appeals to the Administrator have become commonplace, many relating to highway decision approvals rendered over 10 years ago.

The appellate procedures contained in proposed § 3.17 were designed to formalize the present informal appellate procedures and to ensure that appeals were filed in a timely fashion to facilitate their disposition. The references to 5 U.S.C. 704 concerning administrative finality were included to preclude repetitive or untimely appeals, and not, as many commentators suggested, for the purpose of conferring jurisdiction over highway disputes to Federal courts. This Department has no authority to either confer or take away Federal court jurisdiction. Neither the proposing of § 3.17, nor its deletion, have any impact on any person's right to seek court review of highway decisions.

The appellate procedures were also objected to on the grounds that the term "interested person" was too broad and that since there was no time limit concerning the disposition of the appeal, highway construction could be delayed indefinitely. Objections were also raised concerning the automatic "stay" of highway projects upon the filing of an appeal. These objections do have merit and accordingly, the proposed appellate procedures are being withdrawn for further review and reconsideration. Pending further action in this area, the present practice of entertaining informal appeals will continue. The Administration intends to solicit suggestions concerning an appellate procedure that will serve to facilitate the ultimate disposition of highway issues without unduly delaying needed highway construction.

A number of commentators objected to the proposed § 3.3(a)(4) which stated that a primary purpose of the corridor public hearing was to "explore the question of whether alternative methods of transportation would better serve the public interest." It was argued that such an issue should be explored at a much earlier stage, during the comprehensive transportation planning process required by 23 U.S.C. 134. The Administration recognizes the validity of this contention provided that the public has the right to actively participate in that process. Accordingly, proposed § 3.3(a)(4) has been deleted and PPM 50-9 "Urban Transportation Planning" is being amended to require that the public be given the right to express their views with respect to such issues as the choice between alternative methods of transportation.

A number of other changes have been made as a result of coments received and further internal review of the proposal. A provision has been added to paragraph 3 (proposed § 3.1) to provide for excepting from the applicability of Part 3 highway projects urgently needed because of a national emergency, a natural disaster or a catastrophe. The phrase "process of determining" has been substituted for the term "determination" in subparagraphs (a)(2) and (b)(2) of paragraph 4 to make it clear that the actual determination is made by State and Federal officials while interested persons may participate in the process of reaching that determination.

The listing in paragraph 4c of social, economic, and environmental factors has been modified as follows:

1. Additional language has been added to make it clear that the list is only a group of examples of factors that may be relevant to a particular undertaking and that the weight of each factor is not necessarily equal.

2. "Fast, safe, and efficient transportation" was added as the first factor in response to criticism that the proposal ignored the considerations set forth in 23 U.S.C. 101.

3. "Parks" was added to paragraph 4c (5) (proposed § 3.3(c)(4)).

4. The phrase "including effect on local tax base and social service costs" was added to paragraph 4c(12) (proposed § 3.3(c)(11)).

5. "Conservation" was further defined to include "wildlife and ecology" in paragraph 4e(13) proposed § 3.3(c)(12)).

6. Noise and air pollution were added and combined with water pollution in paragraph 4c(15).

A number of comments expressed concern over the language "whose functions, interests, and responsibilities can reasonably be anticipated to be affected" used in paragraph 5(a) and 8 (proposed §§ 3.7(a) and 3.11) concerning coordination of proposals and notification of hearings, respectively. It was argued that state highway departments would be subject to "second guessing" and charges that they failed to coordinate with, or notify, those agencies and groups which the proposed language attempted to cover. Upon further review, it has been determined more appropriate to require the establishment of mailing lists to be maintained by State highway departments. Appropriate persons desiring to be notified of proposals and hearings will be placed on these lists and the highway department will be relieved of the burden of seeking these persons out. Paragraphs 5(a) and 8 (proposed §§ 3.7(a) and 3.11) have been revised accordingly.

Paragraph 6 (proposed § 3.5) has been revised to specify the specific instances when two hearings are required. Two hearings are required for (1) all Interstate and primary highway projects, and (2) secondary highway projects on larger roads; where the project is on a new location or will have a different social, economic or environmental effect. Two hearings are also required on projects where the function of connecting roads would be changed. This would include instances where a project limits access from other roads to the highway involved. These revisions were made in response to comments that the original provisions were vague, and that the smaller secondary road projects should be exempted from the requirement for two hearings. The administration believes that issues concerning those projects can be adequately dealt with at a single combined corridor-design hearing. In addition, it was felt that the necessity for two hearings should depend upon the effect of a project rather than whether it was located in an urban area of 5,000 population. The Administration also concurs in the comments received concerning the vagueness of proposed § 3.5(c)(3) and it has been deleted from Paragraph 6. In paragraphs (d), (e), and (f), the phrase "opportunity for a hearing" has been added to make clear that a hearing must not necessarily have been held.

Various State highway departments requested that they be permitted to follow established State hearing and notice procedures. Provisions have been made in paragraph 7 to allow the use of those procedures if they are found comparable to these procedures.

Paragraph 10.d (proposed § 3.15(d)) has been revised to allow the acquisition of right-of-way in appropriate instances before the design hearing. Many comments were received that the originally proposed provision would conflict with the intent of 23 U.S.C. 108(c) encouraging the advance acquisition of right-of-way. Therefore, instead of providing that the acquisition of right-of-way may be authorized by the division engineer before design hearing only in "exceptional cases", it is provided that acquisition of right-of-way may be acquired under criteria to be prescribed by the Federal Highway Administrator.

In addition to the foregoing, a number of nonsubstantive editorial changes have been made to conform the proposal to the format of a PPM and to clarify the intent of certain provisions.

This amendment is issued under authority of the Federal-aid Highway Act, 23 U.S.C. 101 et seq., 128, 315; sections 2(a), 2(b)(2), and 9(e)(1) of the Department of Transportation Act, 49 U.S.C. 1651(a) and (a)(2), 1657(e)(1).

In view of the foregoing, and after full consideration of all comments received, Part 1 of Title 23 of the Code of Federal Regulations is amended as follows, effective 18 January 1969.

1. Section 1.32 is amended by adding the following sentence at the end thereof: "Selected Policy and Procedure Memoranda are contained in Appendix A to this part."

2. An Appendix A "Policy and Procedure Memoranda," reading as follows, is added to the end of Part 1:

APPENDIX A

POLICY AND PROCEDURE MEMORANDA

This appendix contains selected Policy and Procedure Memoranda issued by the Bureau of Public Roads.

POLICY AND PROCEDURE MEMORANDUM 20-8
PUBLIC HEARINGS AND LOCATION APPROVAL

Par.

1. *Purpose.* The purpose of this PPM is to ensure, to the maximum extent practicable, that highway locations and designs reflect and are consistent with Federal, State, and local goals and objectives. The rules, policies, and procedures established by this PPM are intended to afford full opportunity for effective public participation in the consideration of highway location and design proposals by highway departments before submission to the Federal Highway Administration for approval. They provide a medium for free and open discussion and are designed to encourage early and amicable resolution of controversial issues that may arise.

The PPM requires State highway departments to consider fully a wide range of factors in determining highway locations and highway designs. It provides for extensive coordination of proposals with public and private interests. In addition, it provides for a two-hearing procedure designed to give all interested persons an opportunity to become fully acquainted with highway proposals of concern to them and to express their views at those stages of a proposal's development when the flexibility to respond to these views still exists.

2. *Authority.* This PPM is issued under authority of the Federal-aid Highway Act, 23 U.S.C. 101 et seq., 128, 315; sections 2(a), 2(b)(2), and 9(e)(1) of the Department of Transportation Act, 49 U.S.C. 1651(a) and (a)(2), 1657(e)(1); 49 CFR § 1.4(c); and 23 CFR § 1.32.

3. *Applicability.*

a. This PPM applies to all Federal-aid highway projects.

b. If preliminary engineering or acquisition of right of way related to an undertaking to construct a portion of a Federal-aid highway project is carried out without Federal-aid funds, subsequent phases of the work are eligible for Federal-aid funding only if the nonparticipating work after the effective date of this PPM was done in accordance with this PPM.

c. This PPM shall not apply to the construction of highway projects where the Federal Highway Administrator has made a formal determination that the construction of the project is urgently needed because of a national emergency, a natural disaster or a catastrophic failure.

4. *Definitions.* As used in this PPM

a. A "corridor public hearing" is a public hearing that:

(1) Is held before the route location is approved and before the State highway department is committed to a specific proposal;

(2) Is held to ensure that an opportunity is afforded for effective participation by interested persons in the process of determining the need for, and the location of, a Federal-aid highway; and

(3) Provides a public forum that affords a full opportunity for presenting views on each of the proposed alternative highway locations, and the social, economic, and environmental effects of those alternate locations.

b. A "highway design public hearing" is a public hearing that:

(1) Is held after the route location has been approved, but before the State highway department is committed to a specific design proposal;

(2) Is held to ensure that an opportunity is afforded for effective participation by interested persons in the process of determining the specific location and major design features of a Federal-aid highway; and

(3) Provides a public forum that affords a full opportunity for presenting views on major highway design features, including the social, economic, environmental, and other effects of alternate designs.

c. "Social, economic, and environmental effects" means the direct and indirect benefits or losses to the community and to highway users. It includes all such effects that are relevant and applicable to the particular location or design under consideration such as:

(1) Fast, safe and efficient transportation.
(2) National defense.
(3) Economic activity.
(4) Employment.
(5) Recreation and parks.
(6) Fire protection.
(7) Aesthetics.
(8) Public utilities.
(9) Public health and safety.
(10) Residential and neighborhood character and location.
(11) Religious institutions and practices.
(12) Conduct and financing of Government (including effect on local tax base and social service costs).
(13) Conservation (including erosion, sedimentation, wildlife and general ecology of the area).
(14) Natural and historic landmarks.

(15) Noise, and air and water pollution.
(16) Property values.
(17) Multiple use of space.
(18) Replacement housing.
(19) Education (including disruption of school district operations).
(20) Displacement of families and businesses.
(21) Engineering, right-of-way and construction costs of the project and related facilities.
(22) Maintenance and operating costs of the project and related facilities.
(23) Operation and use of existing highway facilities and other transportation facilities during construction and after completion.

This list of effects is not meant to be exclusive, nor does it mean that each effect considered must be given equal weight in making a determination upon a particular highway location or design.

5. *Coordination.*

a. When a State highway department begins considering the development or improvement of a traffic corridor in a particular area, it shall solicit the views of that State's resources, recreation, and planning agencies, and of those federal agencies and local public officials and agencies, and public advisory groups which the State highway department knows or believes might be interested in or affected by the development or improvement. The State highway department shall establish and maintain a list upon which any federal agency, local public official or public advisory group may enroll, upon its request, to receive notice of projects in any area specified by that agency, official, or group. The State highway departments are also encouraged to establish a list upon which other persons and groups interested in highway corridor locations may enroll in order to have their views considered. If the corridor affects another State, views shall also be solicited from the appropriate agencies within that State. All written views received as a result of coordination under this paragraph must be made available to the public as a part of the public hearing procedures set forth in paragraph 8.

b. Other public hearings or informal public meetings, clearly identified as such, may be desirable either before the study of alternate routes in the corridor begins or as it progresses to inform the public about highway proposals and to obtain information from the public which might affect the scope of the study or the choice of alternatives to be considered, and which might aid in identification of critical social, economic and environmental effects at a stage permitting maximum consideration of these effects. State highway departments are encouraged to hold such a hearing or meeting whenever that action would further the objectives of this PPM or would otherwise serve the public interest.

6. *Hearing requirements.*

a. Both a corridor public hearing and a design public hearing must be held, or an opportunity afforded for those hearings, with respect to each Federal-aid highway project that:

(1) Is on a new location; or
(2) Would have a substantially different social, economic or environmental effect; or
(3) Would essentially change the layout or function of connecting roads or streets.

However, with respect to secondary road programs, two hearings are not required on a project covered by paragraph 6(a) (1) or (2) unless it will carry an average of 750 vehicles a day in the year following its completion.

b. A single combined corridor and highway design public hearing must be held, or the opportunity for such a hearing afforded, on all other projects before route location approval, except as provided in paragraph 6.c. below.

c. Hearings are not required for those projects that are solely for such improvements as resurfacing, widening existing lanes, adding auxiliary lanes, replacing existing grade separation structures, installing traffic control devices or similar improvements, unless the project:

(1) Requires the acquisition of additional right-of-way; or
(2) Would have an adverse effect upon abutting real property; or
(3) Would change the layout or function of connecting roads or streets or of the facility being improved.

d. With respect to a project on which a hearing was held, or an opportunity for a hearing afforded, before the effective date of this PPM, the following requirements apply:

(1) With respect to projects which have not received location approval:

(a) If location approval is not requested within 3 years after the date of the hearing or an opportunity for a hearing, compliance with the corridor hearing requirements is required unless a substantial amount of right-of-way has been acquired.

(b) If location approval is requested within 3 years after the date of the hearing or an opportunity for a hearing, compliance with the corridor hearing requirements is not required.

(2) With respect to those projects which have not received design approval:

(a) If design approval is not requested within 3 years after the date of the hearing or an opportunity for a hearing, compliance with the design hearing requirements is required.

(b) If design approval is requested within 3 years after the date of the hearing or an opportunity for a hearing, compliance with the design hearing requirements is nevertheless required unless the division engineer finds that the hearing adequately dealt with design issues relating to major design features.

e. If location approval is not requested within 3 years after the date of the related corridor hearing held, or an opportunity for a hearing afforded, under this PPM, a new hearing must be held or the opportunity afforded for such a hearing.

f. If design approval is not requested within 3 years after the date of the related design hearing held, or an opportunity for a hearing afforded, under this PPM, a new hearing must be held or the opportunity afforded for such a hearing.

7. *Opportunity for public hearings.*

a. A State may satisfy the requirements for a public hearing by (1) holding a public hearing, or (2) publishing two notices of opportunity for public hearing and holding a public hearing if any written requests for such a hearing are received. The procedure for requesting a public hearing shall be explained in the notice. The deadline for submission of such a request may not be less than 21 days after the date of publication of the first notice of opportunity for public hearing, and no less than 14 days after the date of publication of the second notice of opportunity for public hearing.

b. A copy of the notice of opportunity for public hearing shall be furnished to the division engineer at time of publication. If no requests are received in response to a notice within the time specified for the submission of those requests, the State highway department shall certify that fact to the division engineer.

c. The opportunity for another public hearing shall be afforded in any case where proposed locations or designs are so changed from those presented in the notices specified above or at a public hearing as to have a substantially different social, economic, or environmental effect.

d. The opportunity for a public hearing shall be afforded in each case in which either the State highway department or the division engineer is in doubt as to whether a public hearing is required.

e. Public hearing procedures authorized and required by State law may be followed in lieu of any particular hearing requirement of paragraph 7 or 8 of this PPM if, in the opinion of the Administrator, such procedures are reasonably comparable to that requirement.

8. *Public hearing procedures.*

a. Notice of public hearing:

(1) When a public hearing is to be held, a notice of public hearing shall be published at least twice in a newspaper having general circulation in the vicinity of the proposed undertaking. The notice should also be published in any newspaper having a substantial circulation in the area concerned; such as foreign language newspapers and local community newspapers. The first of the required publications shall be from 30 to 40 days before the date of the hearing; and the second shall be from 5 to 12 days before the date of the hearing. The timing of additional publications is optional.

(2) In addition to publishing a formal notice of public hearing, the State highway department shall mail copies of the notice to appropriate news media, the State's resource, recreation, and planning agencies, and appropriate representatives of the Departments of the Interior and Housing and Urban Development. The State highway department shall also mail copies to other federal agencies, and local public officials, public advisory groups and agencies who have requested notice of hearing and other groups or agencies who, by nature of their function, interest, or responsibility the highway department knows or believes might be interested in or affected by the proposal. The State highway department shall establish and maintain a list upon which any federal agency, local public official, public advisory group or agency, civic association or other community group may enroll upon its request to receive notice of projects in any area specified by that agency, official or group.

(3) Each notice of public hearing shall specify the date, time, and place of the hearing and shall contain a description of the proposal. To promote public understanding, the inclusion of a map or other drawing as part of the notice is encouraged. The notice of public hearing shall specify that maps, drawings, and other pertinent information developed by the State highway department and written views received as a result of the coordination outlined in Paragraph 5.a will be available for public inspection and copying and shall specify where this information is available; namely, at the nearest State highway department office or at some other convenient location in the vicinity of the proposed project.

(4) A notice of highway design public hearing shall indicate that tentative schedules for right-of-way acquisition and construction will be discussed.

(5) Notices of public hearing shall indicate that relocation assistance programs will be discussed.

(6) The State highway department shall furnish the division engineer with a copy of the notice of public hearing at the time of first publication.

b. Conduct of public hearing:

(1) Public hearings are to be held at a place and time generally convenient for persons affected by the proposed undertaking.

(2) Provision shall be made for submission of written statements and other exhibits in place of, or in addition to, oral statements at a public hearing. The procedure for the submissions shall be described in the notice

of public hearing and at the public hearing. The final date for receipt of such statements or exhibits shall be at least 10 days after the public hearing.

(3) At each required corridor public hearing, pertinent information about location alternatives studied by the State highway department shall be made available. At each required highway design public hearing information about design alternatives studied by the State highway department shall be made available.

(4) The State highway department shall make suitable arrangements for responsible highway officials to be present at public hearings as necessary to conduct the hearings and to be responsive to questions which may arise.

(5) The State highway department shall describe the State-Federal relationship in the Federal-aid highway program by an appropriate brochure, pamphlet, or statement, or by other means.

(6) A State highway department may arrange for local public officials to conduct a required public hearing. The State shall be appropriately represented at such public hearing and is responsible for meeting other requirements of this PPM.

(7) The State highway department shall explain the relocation assistance program and relocation assistance payments available.

(8) At each public hearing the State highway department shall announce or otherwise explain that, at any time after the hearing and before the location or design approval related to that hearing, all information developed in support of the proposed location or design will be available upon request, for public inspection and copying.

(9) To improve coordination with the State highway department, it is desirable that the division engineer or his representative attend a public hearing as an observer. At a hearing, he may properly explain procedural and technical matters, if asked to do so. A Federal Highway Administration decision regarding a proposed location or design will not be made before the State highway department has requested location or design approval in accordance with paragraph 10.

c. Transcript:

(1) The State highway department shall provide for the making of a verbatim written transcript of the oral proceedings at each public hearing. It shall submit a copy of the transcript to the division engineer within a reasonable period (usually less than 2 months) after the public hearing, together with:

(a) Copies of, or reference to, or photographs of each statement or exhibit used or filed in connection with a public hearing.

(b) Copies of, or reference to, all information made available to the public before the public hearing.

(2) The State highway department shall make copies of the materials described in subparagraph 8.c.(1) available for public inspection and copying not later than the date the transcript is submitted to the division engineer.

9. *Consideration of social, economic, and environmental effects.* State highway departments shall consider social, economic, and environmental effects before submission of requests for location or design approval, whether or not a public hearing has been held. Consideration of social, economic, and environmental effects shall include an analysis of information submitted to the State highway department in connection with public hearings or in response to the notice of the location or design for which a State highway department intends to request approval. It shall also include consideration of information developed by the State highway department or gained from other contacts with interested persons or groups.

10. *Location and design approval.*

a. This section applies to all requests for location or design approval whether or not public hearings, or the opportunity for public hearings, are required by this PPM.

b. Each request by a State highway department for approval of a route location or highway design must include a study report containing the following:

(1) Descriptions of the alternatives considered and a discussion of the anticipated social, economic, and environmental effects of the alternatives, pointing out the significant differences and the reasons supporting the proposed location or design. In addition, the report must include an analysis of the relative consistency of the alternatives with the goals and objectives of any urban plan that has been adopted by the community concerned.

(a) Location study reports must describe the termini, the general type of facility, the nature of the service which the highway is intended to provide, and other major features of the alternatives.

(b) Design study reports must describe essential elements such as design standards, number of traffic lanes, access control features, general horizontal and vertical alignment, right-of-way requirements and location of bridges, interchanges, and other structures.

(2) Appropriate maps or drawings of the location or design for which approval is requested.

(3) A summary and analysis of the views received concerning the proposed undertaking.

(4) A list of any prior studies relevant to the undertaking.

c. At the time it requests approval under this paragraph, each state highway department shall publish in a newspaper meeting the requirements of paragraph 8.a.(1), a notice describing the location or design, or both, for which it is requesting approval. The notice shall include a narrative description of the location or design. Where practicable, the inclusion of a map or sketch of that location or design is desirable. In any event, the publication shall state that such maps or sketches as well as all other information submitted in support of the request for approval is publicly available at a convenient location.

d. The following requirements apply to the processing of requests for highway location or highway design approval:

(1) *Location approval.* The division engineer may approve a route location and authorize design engineering only after the following requirements are met:

(a) The State highway department has requested route location approval.

(b) Corridor public hearings required by this PPM have been held, or the opportunity for hearings has been afforded.

(c) The State highway department has submitted public hearing transcripts and certificates required by section 128, title 23, United States Code.

(d) The requirements of this PPM and of other applicable laws and regulations.

(2) *Design approval.* The division engineer may approve the highway design and authorize right-of-way acquisition, approve right-of-way plans, approve construction plans, specifications, and estimates, or authorize construction, only after the following requirements have been met:

(a) The route location has been approved.

(b) The State highway department has requested highway design approval.

(c) Highway design public hearings required by this PPM have been held, or the opportunity for hearings has been afforded.

(d) The State highway department has submitted the public hearing transcripts and certificates required by section 128, title 23, United States Code.

(e) The requirements of this PPM and of other applicable laws and regulations.

d. The division engineer, under criteria to be promulgated by the Federal Highway Administrator, may in other appropriate instances authorize the acquisition of right-of-way before a design hearing.

e. Secondary Road Plans shall be amended as necessary to incorporate procedures similar to those required for other projects. Secondary Road Plans shall include provisions requiring (1) route location and highway design approval, (2) preparation of study reports as described in paragraph 10(b), and (3) corridor and highway design public hearings in all cases where they would be required for Federal-aid projects not administered under the Secondary Road Plan. Project actions by the division engineer or submissions to the division engineer which are not now required should not be established for Secondary Road Plan projects as a result of this PPM.

11. *Publication of approval.* In cases where a public hearing was held, or the opportunity for a public hearing afforded, the state highway department shall publish notice of the action taken by the division engineer on each request for approval of a highway location or design, or both, in a newspaper meeting the requirements of paragraph 8.a.(1), within 10 days after receiving notice of that action. The notice shall include a narrative description of the location and/or design, as approved. Where practicable, the inclusion of a map or sketch of that location or design is desirable. In any event, the publication shall state that such maps or sketches as well as all other information concerning the approval is publicly available at a convenient location.

12. *Reimbursement for public hearing expenses.* Public hearings are an integral part of the preliminary engineering process. Reasonable costs associated with public hearings are eligible for reimbursement with federal-aid funds on the same basis as other preliminary engineering costs.

Issued in Washington, D.C., on January 14, 1969.

[SEAL] F. C. TURNER,
Director of Public Roads.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 69-621; Filed, Jan. 16, 1969; 8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6989]

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

Distributions by Foreign Trusts

On September 13, 1966, notice of proposed rule making to conform the Income Tax Regulations (26 CFR Part 1) under sections 641, 643, 665, 666, 668, and 669 of the Internal Revenue Code of 1954 to section 7 of the Revenue Act of 1962 (76 Stat. 985), relating to distributions by

foreign trusts, was published in the FEDERAL REGISTER (31 F.R. 11978). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

1. Section 1.643(d)–1, as set forth in paragraph 5 of the notice of proposed rule making, is changed by revising paragraphs (a) and (b).

2. Section 1.665(a)–1, as set forth in paragraph 7 of the notice of proposed rule making, is changed by revising new paragraph (b).

3. Paragraphs (a) and (c) of § 1.666(a)–1, as set forth in paragraph 13 of the notice of proposed rule making, are changed by revising paragraph (a)(3) and example (3) of paragraph (c) and by adding a new example (4) after example (3) in paragraph (c).

4. Section 1.669(a)–2, as set forth in paragraph 17 of the notice of proposed rule making, is changed by revising paragraphs (a)(1) and (c) (1) and (3).

5. Section 1.669 (a)–4, as set forth in paragraph 17 of the notice of proposed rule making, is changed by revising paragraph (b).

6. There are added immediately after paragraph 17 the following new paragraphs:

PAR. 18. Section 1.643(a)–4 is amended.

PAR. 19. Section 1.643(b)–2 is amended.

PAR. 20. Paragraph (a) of § 1.665(a)–1 is amended.

PAR. 21. Paragraph (b) of § 1.665(e)–2 is amended.

PAR. 22. Paragraph (a) of § 1.666(b)–1 is amended.

PAR. 23. Paragraph (a) of § 1.666(c)–1 is amended.

PAR. 24. Paragraph (a) of § 1.667–1 is amended.

PAR. 25. Paragraph (a)(2) of § 1.671–3 is amended.

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: January 10, 1969.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 641, 643, 665, 666, 668, and 669 of the Internal Revenue Code of 1954 to section 7 of the Revenue Act of 1962 (76 Stat. 985), such regulations are amended as follows:

PARAGRAPH 1. Section 1.641(a)–0 is amended by revising paragraph (a) to read as follows:

§ 1.641(a)–0 Scope of Subchapter J.

(a) *In general.* Subchapter J (sections 641 and following), Chapter 1 of the Code, deals with the taxation of income of estates and trusts and their beneficiaries, and of income in respect of decedents. Part I of Subchapter J contains general rules for taxation of estates and trusts (Subpart A), specific rules relating to trusts which distribute current income only (Subpart B), estates and trusts which may accumulate income or which distribute corpus (Subpart C), treatment of excess distributions by trusts (Subpart D), grantors and other persons treated as substantial owners (Subpart E), and miscellaneous provisions relating to limitations on charitable deductions, income of an estate or trust in case of divorce, and taxable years to which the provisions of Subchapter J are applicable (Subpart F). Part I has no application to any organization which is not to be classified for tax purposes as a trust under the classification rules of §§ 301.7701–2, 301.7701–3, and 301.7701–4 of this chapter (Regulations on Procedure and Administration). Part II of Subchapter J relates to the treatment of income in respect of decedents. However, the provisions of Subchapter J do not apply to employee trusts subject to Subchapters D and F, Chapter 1 of the Code, and common trust funds subject to Subchapter H, Chapter 1 of the Code.

* * * * *

PAR. 2. Section 1.643(a) is amended by revising section 643(a)(6) and by adding a historical note. These amended and added provisions read as follows:

§ 1.643(a) Statutory provisions; estates and trusts; definition of distributable net income.

SEC. 643. *Definitions applicable to Subparts A, B, C, and D*—(a) *Distributable net income.* For purposes of this part, the term "distributable net income" means, with respect to any taxable year, the taxable income of the estate or trust computed with the following modifications—

* * * * *

(6) *Income of foreign trust.* In the case of a foreign trust—

(A) There shall be included the amounts of gross income from sources without the United States, reduced by any amounts which would be deductible in respect of disbursements allocable to such income but for the provisions of section 265(1) (relating to disallowance of certain deductions).

(B) Gross income from sources within the United States shall be determined without regard to section 894 (relating to income exempt under treaty).

(C) Paragraph (3) shall not apply to a foreign trust created by a U.S. person. In the case of such a trust, (i) there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account.

* * * * *

[Sec. 643(a) as amended by sec. 7(a), Rev. Act 1962 (76 Stat. 985)]

PAR. 3. Section 1.643(a)–3 is amended by revising so much of paragraph (a) as precedes subparagraph (1) to read as follows:

§ 1.643(a)–3 Capital gains and losses.

(a) Except as provided in § 1.643(a)–6, gains from the sale or exchange of capital assets are ordinarily excluded from distributable net income, and are not ordinarily considered as paid, credited, or required to be distributed to any beneficiary unless they are:

* * * * *

PAR. 4. Section 1.643(a)–6 is amended to read as follows:

§ 1.643(a)–6 Income of foreign trust.

(a) *Distributable net income of a foreign trust.* In the case of a foreign trust (see section 7701(a)(31)), the determination of distributable net income is subject to the following rules:

(1) There is included in distributable net income the amounts of gross income from sources without the United States, reduced by disbursements allocable to such foreign income which would have been deductible but for the provisions of section 265 (relating to disallowance of deductions allocable to tax exempt income). See paragraph (b) of § 1.643(a)–5 for rules applicable when an estate or trust is allowed a charitable contributions deduction under section 642(c).

(2) In the case of a distribution made by a trust before January 1, 1963, for purposes of determining the distributable net income of the trust for the taxable year in which the distribution is made, or for any prior taxable year;

(i) Gross income from sources within the United States is determined by taking into account the provisions of section 894 (relating to income exempt under treaty); and

(ii) Distributable net income is determined by taking into account the provisions of section 643(a)(3) (relating to exclusion of certain gains from the sale or exchange of capital assets).

(3) In the case of a distribution made by a trust after December 31, 1962, for purposes of determining the distributable net income of the trust for any taxable year, whether ending before January 1, 1963, or after December 31, 1962;

(i) Gross income (for the entire foreign trust) from sources within the United States is determined without regard to the provisions of section 894 (relating to income exempt under treaty);

(ii) In respect of a foreign trust created by a U.S. person (whether such trust constitutes the whole or only a portion of the entire foreign trust) (see section 643(d) and § 1.643(d)–1), there shall be included in gross income gains from the sale or exchange of capital assets reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and the deduction under section 1202 (relating to deduction for capital gains) shall not be taken into account; and

(iii) In respect of a foreign trust created by a person other than a U.S. person (whether such trust constitutes the whole or only a portion of the entire foreign trust) (see section 643(d) and § 1.643(d)–1), distributable net income is determined by taking into account all of the provisions of section 643 except section 643(a)(6)(C) (relating to gains from the sale or exchange of capital assets by a foreign trust created by a U.S. person).

(b) The application of this section, showing the computation of distributable net income for one of the taxable years for which such a computation must be

made, may be illustrated by the following examples:

Example (1). (1) A trust is created in 1952 under the laws of Country X by the transfer to a trustee in Country X of money and property by a U.S. person. The entire trust constitutes a foreign trust created by a U.S. person. The income from the trust corpus is to be accumulated until the beneficiary, a resident citizen of the United States who was born in 1944, reaches the age of 21 years, and upon his reaching that age, the corpus and accumulated income are to be distributed to him. The trust instrument provides that capital gains are to be allocated to corpus and are not to be paid, credited, or required to be distributed to any beneficiary during the taxable year or paid, permanently set aside, or to be used for the purposes specified in section 642(c). Under the terms of a tax convention between the United States and Country X, interest income received by the trust from U.S. sources is exempt from U.S. taxation. In 1965 the corpus and accumulated income are distributed to the beneficiary. During the taxable year 1964, the trust has the following items of income, loss, and expense:

Interest on bonds of a U.S. corporation	$10,000
Net long-term capital gain from U.S. sources	30,000
Gross income from investments in Country X	40,000
Net short-term capital loss from U.S. sources	5,000
Expenses allocable to gross income from investments in Country X	5,000

(2) The distributable net income for the taxable year 1964 of the foreign trust created by a U.S. person, determined under section 643(a), is $70,000, computed as follows:

Interest on bonds of a U.S. corporation		$10,000
Gross income from investments in Country X		40,000
Net long-term capital grain from U.S. sources	$30,000	
Less: Net short-term capital loss from U.S. sources	5,000	
Excess of net long-term capital gain over net short-term capital loss		25,000
Total		75,000
Less: Expenses allocable to income from investments in Country X		5,000
Distributable net income		70,000

(3) In determining the distributable net income of $70,000, the taxable income of the trust is computed with the following modifications: No deduction is allowed for the personal exemption of the trust (section 643(a)(2)); the interest received on bonds of a U.S. corporation is included in the trust gross income despite the fact that such interest is exempt from U.S. tax under the provisions of the tax treaty between Country X and the United States (section 643(a)(6)(B)); the excess of net long-term capital gain over net short-term capital loss allocable to corpus is included in distributable net income, but such excess is not subject to the deduction under section 1202 (section 643(a)(6)(C)); and the amount representing gross income from investments in Country X is included, but such amount is reduced by the amount of the disbursements allocable to such income (section 643(a)(6)(A)).

Example (2). (1) The facts are the same as in example (1) except that money or property has also been transferred to the trust by a person other than a U.S. person and, pursuant to the provisions of § 1.643(d)–1, during 1964 only 60 percent of the entire trust constitutes a foreign trust created by a U.S. person.

(2) The distributable net income for the taxable year 1964 of the foreign trust created by a U.S. person, determined under section 643(a), is $42,000 computed as follows:

Interest on bonds of a U.S. corporation (60 percent of $10,000)		$6,000
Gross income from investments in Country X (60 percent of $40,000)		24,000
Net long-term capital gain from U.S. sources (60 percent of $30,000)	$18,000	
Less: Net short-term capital loss from U.S. sources (60 percent of $5,000)	3,000	
		15,000
Total		45,000
Less: Expenses allocable to income from investments in Country X (60 percent of $5,000)		3,000
Distributable net income		42,000

(3) The distributable net income for the taxable year 1964 of the portion of the entire foreign trust which does not constitute a foreign trust created by a U.S. person, determined under section 643(a), is $18,000, computed as follows:

Interest on bonds of a U.S. corporation (40 percent of $10,000)	$4,000
Gross income from investments in Country X (40 percent of $40,000)	16,000
Total	20,000
Less: Expenses allocable to income from investments in Country X (40 percent of $5,000)	2,000
Distributable net income	18,000

(4) The distributable net income of the entire foreign trust for the taxable year 1964 is $60,000, computed as follows:

Distributable net income of the foreign trust created by a U.S. person	$42,000
Distributable net income of that portion of the entire foreign trust which does not constitute a foreign trust created by a U.S. person	18,000
Distributable net income of the entire foreign trust	60,000

It should be noted that the difference between the $70,000 distributable net income of the foreign trust in example (1) and the $60,000 distributable net income of the entire foreign trust in this example is due to the $10,000 (40 percent of $25,000) net capital gain which under section 643(a)(3) is excluded from the distributable net income of that portion of the foreign trust in example (2) which does not constitute a foreign trust created by a U.S. person.

PAR. 5. Section 1.643(c)–2 is redesignated § 1.643(d)–2, and §§ 1.643(d) and 1.643(d)–1 are added immediately after § 1.643(c)–1. These added and redesignated sections read as follows:

§ 1.643(d) Statutory provisions; estates and trusts; definition of foreign trusts created by United States persons.

SEC. 643. *Definitions applicable to subparts A, B, C, and D.* * * *

(d) *Foreign trusts created by U.S. persons.* For purposes of this part, the term "foreign trust created by a U.S. person" means that portion of a foreign trust (as defined in section 7701(a)(31)) attributable to money or property transferred directly or indirectly by a U.S. person (as defined in section 7701(a)(30)), or under the will of a decedent who at the date of his death was a U.S. citizen or resident.

[Sec. 643(d) as added by sec. 7(a), Rev. Act 1962 (76 Stat. 985)]

§ 1.643(d)–1 Definition of "foreign trust created by a United States person."

(a) *In general.* For the purpose of Part I, subchapter J, chapter 1 of the Internal Revenue Code, the term "foreign trust created by a United States person" means that portion of a foreign trust (as defined in section 7701(a)(31)) attributable to money or property (including all accumulated earnings, profits, or gains attributable to such money or property) of a U.S. person (as defined in section 7701(a)(30)) transferred directly or indirectly, or under the will of a decedent who at the date of his death was a U.S. citizen or resident, to the foreign trust. A foreign trust created by a person who is not a U.S. person, to which a U.S. person transfers his money or property, is a foreign trust created by a U.S. person to the extent that the fair market value of the entire foreign trust is attributable to money or property of the U.S. person transferred to the foreign trust. The transfer of money or property to the foreign trust may be made either directly or indirectly by a U.S. person. Transfers of money or property to a foreign trust do not include transfers of money or property pursuant to a sale or exchange which is made for a full and adequate consideration. Transfers to which section 643(d) and this section apply are transfers of money or property which establish or increase the corpus of a foreign trust. The rules set forth in this section with respect to transfers by a U.S. person to a foreign trust also are applicable with respect to transfers under the will of a decedent who at the date of his death was a U.S. citizen or resident. For provisions relating to the information returns which are required to be filed with respect to the creation of or transfers to foreign trusts, see section 6048 and § 16.3–1 of this chapter (Temporary Regulations under the Revenue Act of 1962).

(b) *Determination of a foreign trust created by a U.S. person.*—(1) *Transfers of money or property only by a U.S. person.* If all the items of money or property constituting the corpus of a foreign trust are transferred to the trust by a U.S. person, the entire foreign trust is a foreign trust created by a U.S. person.

(2) *Transfers of money or property by both a U.S. person and a person other than a U.S. person; transfers required to be treated as separate funds.* Where there are transfers of money or property by both a U.S. person and a person other than a U.S. person to a foreign trust, and it is necessary, either by reason of the provisions of the governing instrument of the trust or by reason of some other requirement such as local law, that the trustee treat the entire foreign trust as composed of two separate funds, one

consisting of the money or property (including all accumulated earnings, profits, or gains attributable to such money or property) transferred by the U.S. person and the other consisting of the money or property (including all accumulated earnings, profits, or gains attributable to such money or property) transferred by the person other than the U.S. person, the foreign trust created by a U.S. person shall be the fund consisting of the money or property transferred by the U.S. person. See example (1) in paragraph (c) of this section.

(3) *Transfers of money or property by both a U.S. person and a person other than a U.S. person; transfers not required to be treated as separate funds.* Where the corpus of a foreign trust consists of money or property transferred to the trust (simultaneously or at different times) by a U.S. person and by a person who is not a U.S. person, the foreign trust created by a U.S. person within the meaning of section 643(d) is that portion of the entire foreign trust which, immediately after any transfer of money or property to the trust, the fair market value of money or property (including all accumulated earnings, profits, or gains attributable to such money or property) transferred to the foreign trust by the U.S. person bears to the fair market value of the corpus (including all accumulated earnings, profits, or gains attributable to the corpus) of the entire foreign trust.

(c) The provisions of paragraph (b) of this section may be illustrated by the following examples. Example (1) illustrates the application of paragraph (b) (2) of this section. Example (2) illustrates the application of paragraph (b) (3) of this section in a case where there is no provision in the governing instrument of the trust or elsewhere which would require the trustee to treat the corpus of the trust as composed of more than one fund.

Example (1). On January 1, 1964, the date of the creation of a foreign trust, a U.S. person transfers to it stock of a U.S. corporation with a fair market value of $50,000. On the same day, a person other than a U.S. person transfers to the trust Country X bonds with a fair market value of $25,000. The governing instrument of the trust provides that the income from the stock of the U.S. corporation is to be accumulated until A, a U.S. beneficiary, reaches the age of 21 years, and upon his reaching that age, the stock and income accumulated thereon are to be distributed to him. The governing instrument of the trust further provides that the income from the Country X bonds is to be accumulated until B, a U.S. beneficiary, reaches the age of 21 years, and upon his reaching that age, the bonds and income accumulated thereon are to be distributed to him. To comply with the provisions of the governing instrument of the trust that the income from the stock of the U.S. corporation be accumulated and distributed to A and that the income from the Country X bonds be accumulated and distributed to B, it is necessary that the trustee treat the transfers as two separate funds. The fund consisting of the stock of the U.S. corporation is a foreign trust created by a U.S. person.

Example (2). On January 1, 1964, the date of the creation of a foreign trust, a U.S. person transfers to it property having a fair market value of $60,000 and a person other than a U.S. person transfers to it property having a fair market value of $40,000. Immediately after these transfers, the foreign trust created by a U.S. person is 60 percent of the entire foreign trust, determined as follows:

$$\frac{\$60{,}000 \text{ (Value of property transferred by U.S. person)}}{\$100{,}000 \text{ (Value of entire property transferred to trust)}} = 60 \text{ percent}$$

The undistributed net income for the calendar years 1964 and 1965 is $20,000 which increases the value of the entire foreign trust to $120,000 ($100,000 plus $20,000). Accordingly, as of December 31, 1965, the portion of the foreign trust created by the U.S. person is $72,000 (60 percent of $120,000). On January 1, 1966, the U.S. person transfers property having a fair market value of $40,000 increasing the value of the entire foreign trust to $160,000 ($120,000 plus $40,000) and increasing the value of the portion of the foreign trust created by the U.S. person to $112,000 ($72,000 plus $40,000). Immediately, after this transfer, the foreign trust created by the U.S. person is 70 percent of the entire foreign trust, determined as follows:

$$\frac{\$112{,}000 \text{ (Value of property transferred by U.S. person)}}{\$160{,}000 \text{ (Value of entire property transferred to the trust)}} = 70 \text{ percent}$$

PAR. 6. Section 1.665(a)–0 is amended to read as follows:

§ 1.665(a)–0 Excess distributions by trusts; scope of subpart D.

Subpart D (section 665 and following), Part I, Subchapter J, Chapter 1 of the Internal Revenue Code, in the case of trusts other than foreign trusts created by U.S. persons, is designed generally to prevent a shift of tax burden to a trust from a beneficiary or beneficiaries. In the case of a foreign trust created by a U.S. person, Subpart D is designed to prevent certain other tax avoidance possibilities. To accomplish these ends, Subpart D provides special rules for treatment of amounts paid, credited, or required to be distributed by a complex trust (subject to Subpart C (section 661 and following) of such Part I) in any year in excess of distributable net income for that year. Such an excess distribution is defined as an accumulation distribution, subject to the limitations in section 665 (b) or (c). An accumulation distribution, in the case of a trust other than a foreign trust created by a U.S. person, is "thrown back" to each of the 5 preceding years in inverse order. In the case of a foreign trust created by a U.S. person such an accumulation distribution is "thrown back," in inverse order, to each of the preceding years to which the Internal Revenue Code of 1954 applies. That is, an accumulation distribution will be taxed to the beneficiaries of the trust in the year the distribution is made or required, but, in general, only to the extent of the distributable net income of those years which was not in fact distributed. However, with respect to a distribution by a trust other than a foreign trust created by a U.S. person, the resulting tax will not be greater than the aggregate of the taxes that would have been attributable to the amount thrown back to previous years had they been included in gross income of the beneficiaries in those years. In the case of a foreign trust created by a U.S. person, the resulting tax is computed under the provisions of section 669. To prevent double taxation, both in the case of a foreign trust created by a U.S. person, and a trust other than a foreign trust created by a U.S. person, the beneficiaries receive a credit for any taxes previously paid by the trust which are attributable to the excess thrown back and which are creditable under the provisions of Chapter 1 of the Internal Revenue Code. Subpart D does not apply to any estate.

PAR. 7. Section 1.665(a)–1 is amended by revising so much of paragraph (a) as precedes subparagraph (1) thereof, by redesignating paragraph (b) as paragraph (c), and by adding a new paragraph (b). These revised, redesignated, and added paragraphs read as folows:

§ 1.665(a)–1 Undistributed net income.

(a) The term "undistributed net income", except in the case of a foreign trust created by a U.S. person, means for any taxable year the distributable net income of the trust for that year as determined under section 643(a), less:

* * * * *

(b) The undistributed net income of a foreign trust created by a U.S. person for any taxable year is the distributable net income of such trust (see § 1.643(a)–6 and the examples set forth in paragraph (b) thereof), less:

(1) The amount of income required to be distributed currently and any other amounts properly paid or credited or required to be distributed to beneficiaries in the taxable year as specified in paragraphs (1) and (2) of section 661(a), and

(2) The amount of taxes imposed on such trust by chapter 1 of the Internal Revenue Code, which are attributable to items of income which are required to be included in such distributable net income. For purposes of subparagraph (2) of this paragraph, the amount of taxes imposed on the trust (for any taxable year), by chapter 1 of the Internal Revenue Code is the amount of taxes imposed pursuant to the provisions of section 871 which is properly allocable to the undistributed portion of the distributable net income. See § 1.665(d)–1. The amount of taxes imposed pursuant to the provisions of section 871 is the difference between the total tax imposed pursuant to the provisions of that section on the foreign trust created by a U.S. person for the year and the amount which would have been imposed on such trust had all the distributable net income, as determined under section 643(a), been distributed. The application of the rule in this paragraph may be illustrated by the following examples:

Example (1). A trust was created in 1952 under the laws of Country X by the transfer to a trustee in Country X of money or

property by a U.S. person. The entire trust constitutes a foreign trust created by a U.S. person. The governing instrument of the trust provides that $7,000 of income is required to be distributed currently to a U.S. beneficiary and gives the trustee discretion to make additional distributions to the beneficiary. During the taxable year 1963 the trust had income of $10,000 from dividends of a U.S. corporation (on which Federal income taxes of $3,000 were imposed pursuant to the provisions of section 871 and withheld under section 1441 resulting in the receipt by the trust of cash in the amount of $7,000), $20,000 in capital gains from the sale of stock of a Country Y corporation, and $30,000 from dividends of a Country X corporation, none of the gross income of which was derived from sources within the United States. The trustee did not file a U.S. income tax return for the taxable year 1963. The distributable net income of the trust before distributions to the beneficiary for 1963 is $60,000 ($57,000 of which is cash). During 1963 the trustee made distributions to the U.S. beneficiary equaling one-half of the trust's distributable net income or $30,000. Thus, the U.S. beneficiary is treated as having had distributed to him $5,000 (composed of $3,500 as a cash distribution and $1,500 as the tax imposed pursuant to the provisions of section 871 and withheld under section 1441), representing one-half of the income from U.S. sources; $10,000 in cash, representing one-half of the capital gains from the sale of stock of the Country Y corporation; and $15,000 in cash, representing one-half of the income from Country X sources for a total of $30,000. The undistributed net income of the trust at the close of taxable year 1963 is $28,500 computed as follows:

Distributable net income		$60,000
Less:		
(1) Amounts distributed to the beneficiary—		
Income currently distributed to the beneficiary	$7,000	
Other amounts distributed to the beneficiary	21,500	
Taxes under sec. 871 deemed distributed to the beneficiary	1,500	
Total amounts distributed to the beneficiary	30,000	
(2) Amount of taxes imposed on the trust under chapter 1 of the Code (See § 1.665 (d)–1)	1,500	
Total		31,500
Undistributed net income		$28,500

Example (2). The facts are the same as in example (1) except that property has been transferred to the trust by a person other than a U.S. person, and during 1963 the foreign trust created by a U.S. person was 60 percent of the entire foreign trust. The trustee paid no income taxes to Country X in 1963.

(1) The undistributed net income of the foreign trust created by a U.S. person for 1963 is $17,100, computed as follows:

Distributable net income (60% of each item of gross income of entire trust):		
60% of $10,000 U.S. dividends		$6,000
60% of $20,000 Country X capital gains		12,000
60% of $30,000 Country X dividends		18,000
Total		36,000
Less:		
(I) Amounts distributed to the beneficiary—		
Income currently distributed to the beneficiary (60% of $7,000)	$4,200	
Other amounts distributed to the beneficiary (60% of $21,500)	12,900	
Taxes under sec. 871 deemed distributed to the beneficiary (60% of $1,500)	900	
Total amounts distributed to the beneficiary	18,000	
(II) Amount of taxes imposed on the trust under chapter 1 of the Code (See § 1.665(d)–1) (60% of $1,500)	900	
Total		18,900
Undistributed net income		17,100

(2) The undistributed net income of the portion of the entire trust which is not a foreign trust created by a U.S. person for 1963 is $11,400, computed as follows:

Distributed net income (40% of each item of gross income of entire trust)		
40% of $10,000 U.S. dividends		$4,000
40% of $20,000 Country X capital gains		8,000
40% of $30,000 Country X dividends		12,000
Total		24,000
Less:		
(I) Amounts distributed to the beneficiary—		
Income currently distributed to the beneficiary (40% of $7,000)	$2,800	
Other amounts distributed to the beneficiary (40% of $21,500)	8,600	
Taxes under sec. 871 deemed distributed to the beneficiary (40% of $1,500)	600	
Total amounts distributed to the beneficiary	12,000	
(II) Amount of taxes imposed on the trust under chapter 1 of the Code (See § 1.665(d)–1) (40% of $1,500)	600	
Total		12,600
Undistributed net income		11,400

(c) However, the undistributed net income for any year to which an accumulation distribution for a later year may be thrown back may be reduced by accumulation distributions in intervening years and also by any taxes imposed on the trust which are deemed to be distributed under section 666 by reason of the accumulation distributions. On the other hand, undistributed net income for any year will not be reduced by any distributions in an intervening year which are excluded from the definition of an accumulation distribution under section 665(b), or which are excluded under section 663(a)(1), relating to gifts, bequests, etc. See paragraph (f)(5) of § 1.668(b)–2 for an illustration of the reduction of undistributed net income for any year by a subsequent accumulation distribution.

PAR. 8. Section 1.665(b) is amended by revising so much of section 665(b) as precedes paragraph (1) and by adding a historical note. These revised and added provisions read as follows:

§ 1.665(b) Statutory provisions; accumulation distributions of trusts other than certain foreign trusts.

SEC. 665. *Definitions applicable to subpart D.* * * *

(b) *Accumulation distributions of trusts other than certain foreign trusts.* For purposes of this subpart, in the case of a trust (other than a foreign trust created by a U.S. person), the term "accumulation distribution" for any taxable year of the trust means the amount (if in excess of $2,000) by which the amounts specified in paragraph (2) of section 661(a) for such taxable year exceed distributable net income reduced by the amounts specified in paragraph (1) of section 661(a). For purposes of this subsection, the amount specified in paragraph (2) of section 661(a) shall be determined without regard to section 666 and shall not include—

* * * * *

[Sec. 665(b) as amended by sec. 7(b), Rev. Act 1962 (76 Stat. 985)]

PAR. 9. Section 1.665(b)–1 is amended by revising the title and paragraphs (a) and (b). These amended provisions read as follows:

§ 1.665(b)–1 Accumulation distributions of trusts other than certain foreign trusts; in general.

(a) Subject to the limitations set forth in § 1.665(b)–2, in the case of a trust other than a foreign trust created by a U.S. person, the term "accumulation distribution" for any taxable year means an amount (if in excess of $2,000), by which the amounts properly paid, credited, or required to be distributed within the meaning of section 661(a)(2) for that year exceed the distributable net income (determined under section 643(a)) of the trust, reduced (but not below zero) by the amount of income required to be distributed currently. (In computing the amount of an accumulation distribution pursuant to the preceding sentence, there is taken into account amounts applied or distributed for the support of a dependent under the circumstances specified in section 677(b) or section 678(c) out of corpus or out of other than income for the taxable year and amounts used to discharge or satisfy any person's legal obligation as that term is used in § 1.662(a)–4.) If the distribution as so computed is $2,000 or less, it is not an accumulation distribution within the meaning of Subpart D (section 665 and following), Part I, Subchapter J, Chapter 1 of the Code. If the distribution exceeds $2,000, then the full amount is an accumulation distribution for the purposes of Subpart D.

(b) Although amounts properly paid, credited, or required to be distributed under section 661(a)(2) do not exceed the income of the trust during the taxable year, an accumulation distribution may result if such amounts exceed distributable net income reduced (but not below zero) by the amount required to be distributed currently. This may result from the fact that expenses allocable to corpus are taken into account in determining taxable income and hence distributable net income. However, in the case of a trust other than a foreign trust created by a U.S. person, the provisions of Subpart D will not apply unless there is undistributed net income in at least one of the five preceding taxable years. See section 666 and the regulations thereunder.

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PAR. 10. Section 1.665(b)-2 is amended by revising the title and paragraph (a). These amended provisions read as follows:

§ 1.665(b)-2 Exclusions from accumulation distributions in the case of trusts (other than a foreign trust created by a U.S. person).

(a) In the case of a trust other than a foreign trust created by a U.S. person, certain amounts paid, credited, or required to be distributed to a beneficiary are excluded under section 665(b) in determining whether there is an accumulation distribution for the purposes of Subpart D (section 665 and following), Part I, Subchapter J, Chapter 1 of the Code. These exclusions are solely for the purpose of determining the amount allocable to preceding years under section 666 and in no way affect the determination under Subpart C (section 661 and following) of such Part I of the beneficiary's tax liability for the year of distribution. Further, amounts excluded from accumulation distributions do not reduce the amount of undistributed net income for the 5 years preceding the year of distribution.

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PAR. 11. Sections 1.665(c), 1.665(c)-1, 1.665(d), 1.665(d)-1, and 1.665(d)-2 are redesignated §§ 1.665(d), 1.665(d)-1, 1.665(e), 1.665(e)-1, and 1.665(e)-2, respectively. In redesignated § 1.665(d), section 665(c) is redesignated section 665(d) and a historical note is added. In redesignated § 1.665(e), section 665(d) is redesignated section 665(e) and a historical note is added. Redesignated § 1.665(e)-1 is amended by revising paragraph (b) thereof. Immediately after § 1.665(b)-3, there are added new §§ 1.665(c), 1.665(c)-1, and 1.665(c)-2. These new, redesignated, and amended provisions read as follows:

§ 1.665(c) Statutory provisions; accumulation distribution of certain foreign trusts.

SEC. 665. *Definitions applicable to Subpart D.* * * *

(c) *Accumulation distribution of certain foreign trusts.* For purposes of this subpart, in the case of a foreign trust, created by a U.S. person, the term "accumulation distribution" for any taxable year of the trust means the amount by which the amounts specified in pargaraph (2) of section 661(a) for such taxable year exceed distributable net income, reduced by the amounts specified in paragraph (1) of section 661(a). For purposes of this subsection, the amount specified in paragraph (2) of section 661(a) shall be determined without regard to section 666. Any amount paid to a U.S. person which is from a payor who is not a U.S. person and which is derived directly or indirectly from a foreign trust created by a U.S. person shall be deemed in the year of payment to have been directly paid by the foreign trust.

* * * * *

[Sec. 665(c) as added by sec. 7(b), Rev. Act 1962 (76 Stat. 985)]

§ 1.665(c)-1 Accumulation distributions of certain foreign trusts; in general.

(a) In the case of a foreign trust created by a U.S. person, the term "accumulation distribution" for any taxable year means an amount by which the amounts properly paid, credited, or required to be distributed within the meaning of section 661(a)(2) for that year exceed the distributable net income (determined under section 643(a)) of the trust, reduced (but not below zero) by the amount of income required to be distributed currently. (In computing the amount of an accumulation distribution pursuant to the preceding sentence, there is taken into account amounts applied or distributed for the support of a dependent under circumstances specified in section 677(b) and section 678(c) out of corpus or out of other than income for the taxable year and amounts used to discharge or satisfy any person's legal obligation as that term is used in § 1.662(a)-4.)

(b) Although amounts properly paid, credited, or required to be distributed under section 661(a)(2) do not exceed the income of the trust during the taxable year, an accumulation distribution may result if such amounts exceed distributable net income reduced (but not below zero) by the amount required to be distributed currently. This may result from the fact that expenses allocable to corpus are taken into account in determining taxable income and hence distributable net income. However, the provisions of Subpart D will not apply unless there is undistributed net income in at least one of the preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. See section 666 and the regulations thereunder.

(c) The provisions of paragraphs (a) and (b) of this section may be illustrated by the examples provided in paragraph (c) of § 1.665(b)-1.

§ 1.665(c)-2 Indirect payments to the beneficiary.

(a) *In general.* Except as provided in paragraph (b) of this section, for purposes of section 665 any amount paid to a U.S. person which is from a payor who is not a U.S. person and which is derived directly or indirectly from a foreign trust created by a U.S. person shall be deemed in the year of payment to the U.S. person to have been directly paid to the U.S. person by the trust. For example, if a nonresident alien receives a distribution from a foreign trust created by a U.S. person and then pays the amount of the distribution over to a U.S. person, the payment of such amount to the U.S. person represents an accumulation distribution to the U.S. person from the trust to the extent that the amount received would have been an accumulation distribution had the trust paid the amount directly to the U.S. person in the year in which the payment was received by the U.S. person. This section also applies in a case where a nonresident alien receives indirectly an accumulation distribution from a foreign trust created by a U.S. person and then pays it over to a U.S. person. An example of such a transaction is one where the foreign trust created by a U.S. person makes the distribution to an intervening foreign trust created by either a U.S. person or a person other than a U.S. person and the intervening trust distributes the amount received to a nonresident alien who in turn pays it over to a U.S. person. Under these circumstances, it is deemed that the payment received by the U.S. person was received directly from a foreign trust created by a U.S. person.

(b) *Limitation.* In the case of a distribution to a beneficiary who is a U.S. person, paragraph (a) of this section does not apply if the distribution is received by such beneficiary under circumstances indicating lack of intent on the part of the parties to circumvent the purposes for which section 7 of the Revenue Act of 1962 (76 Stat. 985) was enacted.

§ 1.665(d) Statutory provisions; excess distributions by trusts; definition of taxes imposed on the trust.

SEC. 665. *Definitions applicable to Subpart D.* * *

(d) *Taxes imposed on the trust.* * * *

[Sec. 665(d) as redesignated by sec. 7(b) Rev. Act 1962 (76 Stat. 985)]

§ 1.665(d)-1 Taxes imposed on the trust.

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§ 1.665(e) Statutory provisions; excess distributions by trusts; definition of preceding taxable year.

SEC. 665. *Definitions applicable to Subpart D.* * * *

(e) *Preceding taxable year.* * * *

[Sec. 665(e) as redesignated by sec. 7(b), Rev. Act 1962 (76 Stat. 985)]

§ 1.665(e)-1 Preceding taxable year.

* * * * *

(b) *Simple trusts subject to Subpart D.* An accumulation distribution may be properly allocated to a preceding taxable year in which the trust qualified as a simple trust (that is, qualified for treatment under Subpart B (section 651 and following) of such Part I). In such event, the trust is treated for such preceding taxable year in all respects as if it were a trust to which Subpart C (section 661 and following) of such Part I applies. An example of such a circumstance would be in the case of a trust

(required under the trust instrument to distribute all of its income currently) which received in the preceding taxable year extraordinary dividends or taxable stock dividends which the trustee in good faith allocated to corpus, but which are subsequently determined to be currently distributable to the beneficiary. See section 643(a)(4) and § 1.643(a)-4. The trust would qualify for treatment under such Subpart C for the year of distribution of the extraordinary dividends or taxable stock dividends, because the distribution is not out of income of the current taxable year and would be treated as other amounts properly paid or credited or required to be distributed for such taxable year within the meaning of section 661(a)(2). Also, in the case of a trust other than a foreign trust created by a U.S. person, the distribution would qualify as an accumulation distribution for the purposes of such Subpart D if in excess of $2,000 and not excepted under section 665(b) and the regulations thereunder. In the case of a foreign trust created by a U.S. person, the distribution, regardless of the amount, would qualify as an accumulation distribution for the purposes of Subpart D. For the purposes only of such Subpart D, the trust would be treated as subject to the provisions of such Subpart C for the preceding taxable year in which the extraordinary or taxable stock dividends were received and in computing undistributed net income for such preceding year, the extraordinary or taxable stock dividends would be included in distributable net income under section 643(a). The rule stated in the preceding sentence would also apply if the distribution in the later year were made out of corpus without regard to a determination that the extraordinary dividends or taxable stock dividends in question were currently distributable to the beneficiary.

§ 1.665(e)-2 Application of separate share rule.

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PAR. 12. Section 1.666(a) is amended by revising section 666(a) and by adding a historical note. These amended and added provisions read as follows:

§ 1.666(a) Statutory provisions; excess distributions by trusts; allocation of accumulation distribution.

SEC. 666. *Accumulation distribution allocated to 5 preceding years*—(a) *Amount allocated.* In the case of a trust (other than a foreign trust created by a U.S. person) which for a taxable year beginning after December 31, 1953, is subject to Subpart C, the amount of the accumulation distribution of such trust for such taxable year shall be deemed to be an amount within the meaning of paragraph (2) of section 661(a) distributed on the last day of each of the 5 preceding taxable years to the extent that such amount exceeds the total of any undistributed net incomes for any taxable years intervening between the taxable year with respect to which the accumulation distribution is determined and such preceding taxable year. The amount deemed to be distributed in any such preceding taxable year under the preceding sentence shall not exceed the undistributed net income of such preceding taxable year. For purposes of this subsection, undistributed net income for each of such 5 preceding taxable years shall be computed without regard to such accumulation distribution and without regard to any accumulation distribution determined for any succeeding taxable year. In the case of a foreign trust created by a U.S. person, this subsection shall apply to the preceding taxable years of the trust without regard to any provision of the preceding sentences which would (but for this sentence) limit its application to the 5 preceding taxable years.

[Sec. 666(a) as amended by sec. 7(c), Rev. Act 1962 (76 Stat. 986)]

PAR. 13. Section 1.666(a)-1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.666(a)-1 Amount allocated.

(a)(1) If a trust other than a foreign trust created by a U.S. person makes an accumulation distribution in any taxable year, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the preceding 5 years. It is therefore necessary to determine the extent to which there is undistributed net income for the preceding 5 years. For this purpose, an accumulation distribution made in any taxable year is allocated to each of the 5 preceding taxable years in turn, beginning with the most recent year, to the extent of the undistributed net income of each of those years. Thus, an accumulation distribution is deemed to have been made from the most recently accumulated income of the trust.

(2) If a foreign trust created by a U.S. person makes an accumulation distribution in any year after December 31, 1962, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the trust's preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. It is therefore necessary to determine the extent to which there is undistributed net income for such preceding taxable years. For this purpose, an accumulation distribution made in any taxable year is first allocated to each of such preceding taxable years in turn, beginning with the most recent year, to the extent of the undistributed net income of each of those years. Thus, an accumulation distribution is deemed to have been made from the most recently accumulated income of the trust.

(3) If a trust that is in part a foreign trust created by a U.S. person and in part a foreign trust created by a person other than a U.S. person makes an accumulation distribution in any year after December 31, 1962, the distribution is deemed made from the undistributed net income of the foreign trust created by a U.S. person in the proportion that the total undistributed net income for all preceding years of the foreign trust created by the U.S. person bears to the total undistributed net income for all years of the entire foreign trust. In addition, such distribution is deemed made from the undistributed net income of the foreign trust created by a person other than a U.S. person in the proportion that the total undistributed net income for all preceding years of the foreign trust created by a person other than a U.S. person bears to the total undistributed net income for all years of the entire foreign trust. Accordingly, an accumulation distribution of such a trust is composed of two portions with one portion relating to the undistributed net income of the foreign trust created by the U.S. person and the other portion relating to the undistributed net income of the foreign trust created by the person other than a U.S. person. For these purposes, each portion of an accumulation distribution made in any taxable year is first allocated to each of such preceding taxable years in turn, beginning with the most recent year, to the extent of the undistributed net income for the applicable foreign trust for each of those years. Thus, each portion of an accumulation distribution is deemed to have been made from the most recently accumulated income of the applicable trust. If the foreign trust created by a U.S. person makes an accumulation distribution in any year after December 31, 1962, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the trust's preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. If the foreign trust created by a person other than a U.S. person makes an accumulation distribution in any taxable year, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the preceding 5 years.

(c) Paragraphs (a) and (b) of this section may be illustrated by the following examples.

Example (1). In 1964, a domestic trust, reporting on the calendar year basis, makes an accumulation distribution of $25,000. In 1963, the trust had $7,000 of undistributed net income; in 1962, none; in 1961, $12,000; in 1960, $4,000; in 1959, $4,000. The accumulation distribution is deemed distributed $7,000 in 1963, none in 1962, $12,000 in 1961, $4,000 in 1960, and $2,000 in 1959.

Example (2). In 1964, a foreign trust created by a U.S. person, reporting on the calendar year basis, makes an accumulation distribution of $50,000. In 1963, the trust had $12,000 of undistributed net income; in 1962, none; in 1961, $10,000; in 1960, $8,000; in 1959, $5,000; in 1958, $14,000; in 1957, none; in 1956, $3,000; in 1955, $2,000; and in 1954, $1,000. The accumulation distribution is deemed distributed $12,000 in 1963, none in 1962, $10,000 in 1961, $8,000 in 1960, $5,000 in 1959, $14,000 in 1958, none in 1957, $1,000 in 1956.

Example (3). A trust is created in 1952 under the laws of Country X by the transfer to a trustee in Country X of money and property by both a U.S. person and a person other than a U.S. person. Both the trust and the only beneficiary of the trust (who is a U.S. person) report their taxable income on a calendar year basis. On March 31, 1964, the trust makes an accumulation distribution of $150,000 to the U.S. beneficiary. The distributable net income of both the portion of the trust which is a foreign trust created by a U.S. person and the portion of the trust which is a foreign trust created by a person other than a U.S. person for each year is computed in accordance with the provisions of

paragraph (b)(3) of § 1.643(d)–1 and the undistributed net income for each portion of the trust for each year is computed as described in paragraph (b) of § 1.665(a)–1. For the taxable years 1952 through 1963, the portion of the trust which is a foreign trust created by a U.S. person and the portion of the trust which is a foreign trust created by a person other than a U.S. person had the following amounts of undistributed net income:

Year	Undistributed net income—portion of the trust created by a U.S. person	Undistributed net income—portion of the trust created by a person other than a U.S. person
1963	$20,000	$10,000
1962	25,000	12,000
1961	None	None
1960	16,000	9,000
1959	17,000	8,000
1958	4,000	2,000
1957	None	None
1956	8,000	3,000
1955	11,000	5,000
1954	None	None
1953	12,000	7,000
1952	7,000	4,000
Totals	120,000	60,000

The accumulation distribution in the amount of $150,000 is deemed to have been distributed in the amount of $100,000 (120,000/180,000 × $150,000) from the portion of the trust which is a foreign trust created by a U.S. person, and in the amount of $50,000 (60,000/180,000 × $150,000) from the portion of the trust which is a foreign trust created by a person other than a U.S. person computed as follows:

Year	Throwback to preceding years of foreign trust created by U.S. person	Throwback to preceding years of portion of the entire foreign trust which is not a foreign trust created by a U.S. person
1963	$20,000	$10,000
1962	25,000	12,000
1961	None	None
1960	16,000	9,000
1959	17,000	8,000
1958	4,000	2,000
1957	None	None
1956	8,000	3,000
1955	10,000	5,000
1954	None	None
1953	None	1,000
1952	None	None
Totals	100,000	50,000

Pursuant to paragraph (a)(3) of this section, the accumulation distribution in the amount of $100,000 from the portion of the trust which is a foreign trust created by a U.S. person is included in the beneficiary's gross income for 1964, as this amount represents undistributed net income of the trust for the trust's preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. The accumulation distribution in the amount of $50,000 from the portion of the trust which is a foreign trust created by a person other than a U.S. person is included in the beneficiary's gross income for 1964 to the extent of the undistributed net income of the trust for the preceding 5 years. Accordingly, with respect to the portion of the trust which is a foreign trust created by a person other than a U.S. person only the undistributed net income for the years 1959 through 1963 which totals $39,000 is includible in the beneficiary's gross income for 1964. Thus, of the $150,000 distribution made in 1964, the beneficiary is required to include a total of $139,000 in his gross income for 1964.

Example (4). Assume the same facts as in example (3) and, in addition, that by December 31, 1964, the undistributed net income for 1964 is determined to be $20,000, and that in accordance with the provisions of paragraph (b)(3) of § 1.643(d)–1 and paragraph (b) of § 1.665(a)–1, $10,000 is allocated to the portion of the trust which is a foreign trust created by a U.S. person and $10,000 is allocated to the portion of the trust which is a foreign trust created by a person other than a U.S. person. On March 31, 1965, the trust makes an accumulation distribution of $25,000 to the U.S. beneficiary. For the taxable years 1952 through 1964, the portion of the trust which is a foreign trust created by a U.S. person and the portion of the trust which is a foreign trust created by a person other than a U.S. person had the following amounts of undistributed net income:

Year	Undistributed net income—portion of the trust created by a U.S. person	Undistributed net income—portion of the trust created by a person other than a U.S. person
1964	$10,000	$10,000
1963	None	None
1962	None	None
1961	None	None
1960	None	None
1959	None	None
1958	None	None
1957	None	None
1956	None	None
1955	1,000	None
1954	None	None
1953	12,000	6,000
1952	7,000	4,000
Totals	30,000	20,000

The accumulation distribution is deemed to have been distributed in the amount of $15,000 (30,000/50,000 x $25,000), from the portion of the trust which is a foreign trust created by a U.S. person, and in the amount of $10,000 (20,000/50,000 x $25,000) from the portion of the trust which is a foreign trust created by a person other than a U.S. person computed as follows:

Year	Throwback to preceding years of foreign trust created by U.S. person	Throwback to preceding years of portion of the entire foreign trust which is not a foreign trust created by a U.S. person
1964	$10,000	$10,000
1963	None	None
1962	None	None
1961	None	None
1960	None	None
1959	None	None
1958	None	None
1957	None	None
1956	None	None
1955	1,000	None
1954	None	None
1953	4,000	None
1952	None	None
Totals	15,000	10,000

Pursuant to paragraph (a)(3) of this section, only $11,000 of the accumulation distribution in the amount of $15,000 from the portion of the trust which is a foreign trust created by a U.S. person is includible in the beneficiary's gross income for 1965 as the $11,000 amount represents undistributed net income of the trust for the trust's preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. The accumulation distribution in the amount of $10,000 from the portion of the trust which is a foreign trust created by a person other than a U.S. person is included in the beneficiary's gross income for 1965 to the extent of the undistributed net income of the trust for the preceding 5 years. Accordingly, the entire $10,000 (representing the undistributed net income for the year 1964) is includible in the beneficiary's gross income for 1965. Thus, of the $25,000 distribution made in 1965, the beneficiary is required to include a total of $21,000 in his gross income for 1965.

* * * * *

PAR. 14. Section 1.668(a) is amended by revising section 668(a) and by adding a historical note. These amended and added provisions read as follows:

§ 1.668(a) Statutory provisions; excess distributions by trusts; treatment of amounts deemed distributed in preceding taxable years; amounts treated as received in prior taxable years.

SEC. 668. *Treatment of amounts deemed distributed in preceding years*—(a) *Amounts treated as received in prior taxable years.* The total of the amounts which are treated under section 666 as having been distributed by the trust in a preceding taxable year shall be included in the income of a beneficiary or beneficiaries of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary or beneficiaries under section 662 (a) (2) and (b) if such total had been paid to such beneficiary or beneficiaries on the last day of such preceding taxable year. The portion of such total included under the preceding sentence in the income of any beneficiary shall be based upon the same ratio as determined under the second sentence of section 662(a)(2) for the taxable year in respect of which the accumulation distribution is determined, except that proper adjustment of such ratio shall be made, in accordance with regulations prescribed by the Secretary or his delegate, for amounts which fall within paragraphs (1) through (4) of section 665(b). The tax of the beneficiaries attributable to the amounts treated as having been received on the last day of such preceding taxable year of the trust shall not be greater than the aggregate of the taxes attributable to those amounts had they been included in the gross income of the beneficiaries on such day in accordance with section 662 (a)(2) and (b). Except as provided in section 669, in the case of a foreign trust created by a U.S. person the preceding sentence shall not apply to any beneficiary who is a U.S. person.

[Sec. 668(a) as amended by sec. 7(d), Rev. Act 1962 (76 Stat. 996)]

PAR. 15. Section 1.668(a)–4 is amended by revising so much of paragraph (a) as precedes subparagraph (1) thereof to read as follows:

§ 1.668(a)–4 Tax attributable to throwback.

(a) The tax attributable to amounts deemed distributed under section 666 is imposed on the beneficiary for the taxable year of the beneficiary in which the accumulation distribution is made unless the taxable year of the beneficiary is different from that of the trust (see section 662(c) and the regulations thereunder). In the case of a trust (other than a foreign trust created by a U.S. person), the tax cannot be greater than the aggregate of the taxes attributable to those amounts had they been included, in accordance with the provisions of section 662 (a)(2) and (b), in the gross income of the beneficiary for the preceding taxable year or years in which they were deemed distributed. In the case of a foreign trust created by a U.S. person, the tax on the beneficiary shall be computed

in accordance with the provisions of section 669 and the regulations thereunder. The tax liability of the beneficiary of a trust (other than a foreign trust created by a U.S. person), including the portion of an entire foreign trust which does not constitute a foreign trust created by a U.S. person (see § 1.643(d)–1), for the taxable year is computed in the following manner:

* * * * *

PAR. 16. Section 1.668(b)–2 is amended by revising so much thereof as precedes the example to read as follows:

§ 1.668(b)–2 Illustration of the provisions of Subpart D.

The provisions of Subpart D (section 665 and following), Part I, Subchapter J, Chapter 1 of the Code, other than provisions relating to a foreign trust created by a U.S. person, may be illustrated by the following example:

* * * * *

PAR. 17. Immediately after § 1.668(b)–2, there are added the following new sections:

§ 1.669(a) Statutory provisions; special rules applicable to certain foreign trusts; limitation on tax.

SEC. 669. *Special rules applicable to certain foreign trusts*—(a) *Limitation on tax*—(1) *General rule.* At the election of a beneficiary who is a U.S. person (as defined in section 7701(a)(30)) and who satisfies the requirements of subsection (b), the tax attributable to the amounts treated under section 668(a) as having been received by him from a foreign trust created by a U.S. person on the last day of a preceding taxable year of the trust shall not be greater than—

(A) The tax determined under the next to the last sentence of section 668(a), or

(B) The tax determined by multiplying by the number of preceding taxable years of the trust, on the last day of each of which an amount is deemed under section 666(a) to have been distributed, the average of the increase in tax attributable to recomputing the beneficiary's gross income for the taxable year and each of his 2 taxable years immediately preceding the year of the accumulation distribution by adding to the income of each of such years an amount determined by dividing the amount required to be included in income under section 668(a) by such number of preceding taxable years of the trust. The recomputation for the taxable year shall be made without regard to the inclusion in income required by section 668(a) of any amount other than pursuant to this paragraph.

(2) *Exceptions.* (A) When an accumulation distribution is deemed under section 666(a) to have been distributed on the last day of less than 3 taxable years of the trust, the taxable years of the beneficiary for which a recomputation is made under subsection (a)(1)(B) shall equal the number of years to which section 666(a) applies, commencing with the most recent taxable year of the beneficiary.

(B) If a beneficiary was not alive on the last day of each preceding taxable year of the trust with respect to which a distribution is deemed made under section 666(a), paragraph (1)(A) of this subsection shall not apply. In applying paragraph (1)(B) of this subsection, no recomputation shall be made for a beneficiary for a taxable year for which he was not alive; if he has no preceding taxable year, the recomputation shall be made on the basis of his taxable year without regard to the inclusion in income required by section 668(a) of any amount other than pursuant to paragraph (1)(B).

(3) *Effect of prior election.* In computing the limitation on tax under paragraph (1) of this subsection for any beneficiary—

(A) *Subsequent election under paragraph (1)(A).* If an election has been made under paragraph (1)(B) of this subsection, for purposes of a subsequent election under paragraph (1)(A) the income of any year with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall include amounts previously deemed distributed to such beneficiary for such year as a result of an accumulation distribution with respect to which an election under paragraph (1)(B) was made.

(B) *Subsequent election under paragraph (1)(B).* If with respect to an accumulation distribution an election has been made under either paragraph (1)(A) or paragraph (1)(B) of this subsection, or the next to the last sentence of section 668(a) has applied, for purposes of a subsequent election under paragraph (1)(B) the number of preceding taxable years of the trust with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall be determined without regard to any such year with respect to which an amount was previously deemed distributed to such beneficiary.

[Sec. 669(a) as added by sec. 7(e), Rev. Act 1962 (76 Stat. 986)]

§ 1.669(a)–1 Limitation on tax.

(a) *In general.* Section 669 provides that, at the election of a beneficiary who is a U.S. person (as defined in section 7701(a)(30)) and who satisfies the requirements of section 669(b) (that certain information with respect to the operation and accounts of the trust be supplied), the tax attributable to the amounts treated under section 668(a) as having been received by him, from a foreign trust created by a U.S. person, on the last day of a preceding taxable year of the trust shall not be greater than the tax computed under section 669(a)(1)(A) (the computation under this provision will hereinafter be referred to as the "exact throwback" method) or under section 669(a)(1)(B) (the computation under this provision will hereinafter be referred to as the "short-cut throwback" method). This election of the beneficiary with respect to the taxable year of the beneficiary in which the distribution is made shall be made with the district director before the expiration of the period of limitations for assessment provided in section 6501 for such taxable year.

(b) *Where no election is made.* If the beneficiary does not make the election provided in section 669(a) in the manner required in section 669(b) and § 1.669(b)–2, or furnish the information with respect to the operation and accounts of the foreign trust created by a U.S. person required by section 669(b) and § 1.669(b)–1, the tax on an accumulation distribution treated under section 668(a) as having been received by him from such foreign trust on the last day of a preceding taxable year of the trust shall be computed without reference to section 668 or 669. In such case, the entire accumulation distribution will be included in the gross income of the beneficiary in the year in which it is paid, credited, or required to be distributed, and tax for such year will be computed on the basis of the beneficiary's total taxable income for the year after taking into account such inclusion in gross income.

(c) *Year for which tax is payable.* The tax, regardless of the manner in which computed, of the beneficiary which is attributable to an accumulation distribution is imposed on the beneficiary for the taxable year of the beneficiary in which the accumulation distribution is made to him unless the taxable year of the beneficiary is different from that of the trust. See section 662(c) and § 1.662(c)–1.

§ 1.669(a)–2 Rules applicable to section 669 computations.

(a) *In general.* (1) Section 668(a) provides that the total of the amounts treated under section 666 as having been distributed by the foreign trust created by a U.S. person on the last day of a preceding taxable year of such trust shall be included in the gross income of the beneficiary or the beneficiaries who are U.S. persons receiving them. The total of such amounts is includible in the gross income of each beneficiary to the extent the amount would have been included in his gross income under section 662(a)(2) and (b) if the total had actually been paid by the trust on the last day of such preceding taxable year. The total is included in the gross income of the beneficiary for the taxable year of the beneficiary in which such amounts are in fact paid, credited, or required to be distributed unless the taxable year of the beneficiary differs from the taxable year of the trust (see section 662(c) and § 1.662(c)–1). The character of the amounts treated as received by a beneficiary in prior taxable years, including taxes deemed distributed, in the hands of the beneficiary is determined by the rules contained in section 662(b) and §§ 1.662(b)–1 and 1.662(b)–2.

(2) The total of the amounts treated under section 666 as having been distributed by the trust on the last day of a preceding taxable year of the trust are included as prescribed in subparagraph (1) of this paragraph in the gross income of the beneficiary even though as of that day the beneficiary would not have been entitled to receive them had they actually been distributed on that day.

(3) Any deduction allowed to the trust in computing distributable net income for a preceding taxable year (such as depreciation, depletion, etc.) is not deemed allocable to a beneficiary because of the amounts included in a beneficiary's gross income under this section since the deduction has already been utilized in reducing the amount included in the beneficiary's income.

(b) *Allocation among beneficiaries of a foreign trust.* Where there is more than one beneficiary the portion of the total amount includible in gross income under paragraph (a) of this section which is includible in the gross income of a beneficiary who is a U.S. person is based upon the ratio determined under the second sentence of section 662(a)(2) for the taxable year in which distributed

(and not for the preceding taxable year). This paragraph may be illustrated by the example in § 1.668(a)-2.

(c) *Treatment of income taxes paid by the trust*—(1) *Current distributions.* The income taxes imposed by the provisions of section 871 on the income of a foreign trust created by a U.S. person shall be included in the gross income of the beneficiary, who is a U.S. person, for the taxable year in which such income is paid, credited, or required to be distributed to the beneficiary.

(2) *Accumulation distribution.* (i) If an accumulation distribution is deemed under § 1.666(a)-1 to be distributed on the last day of a preceding taxable year and the amount is not less than the undistributed net income for such preceding taxable year, then an additional amount equal to the taxes imposed on the trust pursuant to the provisions of section 871 for such preceding taxable year is likewise deemed distributed under section 661(a)(2).

(ii) If an accumulation distribution is deemed under § 1.666(a)-1 to be distributed on the last day of a preceding taxable year and the amount is less than the undistributed net income for such preceding taxable year, then an additional amount (representing taxes) is likewise deemed distributed under section 661(a)(2). The additional amount is equal to the taxes imposed on the trust pursuant to the provisions of section 871 for such preceding taxable year, multiplied by the fraction the numerator of which is the amount of the accumulation distribution attributable to such preceding taxable year and the denominator of which is the undistributed net income for such preceding taxable year.

(3) *Credits under sections 32 and 668(b).* Credit under section 32 is allowable to the beneficiary for income taxes withheld at source under subchapters A and B of chapter 3 and which are deemed distributed to him. Credit under section 668(b) is allowable to the beneficiary for income taxes imposed upon the foreign trust by section 871(b). These credits shall be allowed against the tax of the beneficiary for the taxable year of the beneficiary in which the income is paid, credited, or required to be distributed to him, or in which the accumulation distribution to which such taxes relate is made to him.

(d) *Credit for foreign income taxes paid by the trust.* To the extent provided in section 901, credit under section 33 is allowable to the beneficiary for the foreign taxes paid or accrued by the trust to a foreign country.

§ 1.669(a)-3 Tax computed by the exact throwback method.

(a) *Tax attributable to amounts treated as received in preceding taxable years.* If a taxpayer elects to compute the tax, on amounts deemed distributed under section 666, by the exact throwback method provided in section 669(a)(1)(A), the tax liability of the beneficiary for the taxable year in which the accumulation distribution is paid, credited, or required to be distributed is computed as provided in paragraph (b) of this section. The beneficiary may not elect to use the exact throwback method of computing his tax on an accumulation distribution as provided in section 669(a)(1)(A) if he were not alive on the last day of each preceding taxable year of the foreign trust created by a U.S. person with respect to which a distribution is deemed made under section 666(a). Thus, if a portion of an amount received as an accumulation distribution was accumulated by the trust during years before the beneficiary was born, the beneficiary is not permitted to elect the exact throwback method provided in section 669(a)(1)(A). See § 1.669(a)-4 for the computation of the tax on an accumulation distribution by the short-cut throwback method provided in section 669(a)(1)(B) under these circumstances.

(b) *Computation of tax.* The tax referred to in paragraph (a) of this section is computed as follows:

(1) First, compute the tax attributable to the section 666 amounts for each of the preceding taxable years. To determine the section 666 amounts attributable to each of the preceding taxable years, see § 1.666(a)-1. The tax attributable to such amounts in each such preceding taxable year is the difference between the tax for such preceding taxable year computed with the inclusion of the section 666 amounts in gross income, and the tax for such year computed without including them in gross income. Tax computations for each preceding year shall reflect the taxpayer's marital and dependency status for that year.

(2) Second, add

(i) The sum of the taxes for the preceding taxable years attributable to the section 666 amounts (computed in accordance with subparagraph (1) of this paragraph), and

(ii) The tax for the taxable year of the beneficiary in which the accumulation distribution is paid, credited, or required to be distributed to him, computed without including the section 666 amounts in gross income.

The total of these amounts is the beneficiary's tax, computed under section 669(a)(1)(A) for the taxable year in which the accumulation distribution is paid, credited, or required to be distributed to him.

(c) *Effect of prior election.* In computing the tax attributable to an accumulation distribution for the taxable year in which such accumulation distribution is paid, credited, or required to be distributed to him, the beneficiary in computing the tax attributable to section 666 amounts for each of the preceding taxable years, must include in his gross income for each such year the section 666 amounts deemed distributed to him in such year resulting from prior accumulation distributions made to him in taxable years prior to the current taxable year. These section 666 amounts resulting from such prior accumulation distributions must be included in the gross income for such preceding taxable year even though the tax on the accumulation distribution of such prior taxable year was computed by the short-cut throwback method provided in section 669(a)(1)(B) and § 1.669(a)-4.

§ 1.669(a)-4 Tax attributable to short-cut throwback method.

(a) *Manner of computing tax.* If a beneficiary has elected under section 669(a) to compute the tax on the amounts deemed distributed under section 666 by the short-cut throwback method provided in section 669(a)(1)(B), the tax liability of the beneficiary for the taxable year is computed in the following manner:

(1) First, determine the number of preceding taxable years of the trust, on the last day of which an amount is deemed under section 666(a) to have been distributed. In any case where there has been a prior accumulation distribution with respect to which the beneficiary has elected to compute his tax either by the exact throwback method or by the short-cut throwback method, or to which the next to the last sentence of section 668(a) has applied, for purposes of an election to use the short-cut throwback method with respect to a subsequent accumulation distribution, in determining the number of preceding taxable years of the trust with respect to which an amount of the subsequent accumulation distribution is deemed distributed to a beneficiary under section 666(a), there shall be excluded any preceding taxable year during which any part of the prior accumulation distribution was deemed distributed to the beneficiary. For example, assume that an accumulation distribution of $90,000 made to a beneficiary in 1963 is deemed distributed in the amounts of $25,000 in each of the years 1962, 1961, and 1960, and in the amount of $15,000 in 1959, and a subsequent accumulation distribution of $85,000 made to the same beneficiary in 1964 is deemed distributed in the amount of $10,000 during 1959, and $25,000 during each of the years 1958, 1957, and 1956. The accumulation distribution made in 1963 is deemed distributed in 4 preceding taxable years of the trust (1962, 1961, 1960, and 1959). Inasmuch as the year 1959 was a year during which part of the 1963 accumulation distribution was deemed distributed, for purposes of determining the number of preceding taxable years in which the accumulation distribution of $85,000 made in 1964 is deemed distributed, the year 1959 is excluded and the $85,000 accumulation distribution is deemed distributed in three preceding taxable years (1958, 1957, and 1956),

(2) Second, divide the number of preceding taxable years of the trust, on the last day of which an amount is deemed under section 666(a) to have been distributed (determined as provided in subparagraph (1) of this paragraph) into the amount (representing an accumulation distribution made by a foreign trust created by a U.S. person) required to be included under section 668(a) in the gross income of the beneficiary for the taxable year,

(3) Third, compute the tax of the beneficiary for the current taxable year

(the year in which the accumulation distribution is paid, credited, or required to be distributed to him) and for each of the 2 taxable years immediately preceding such year,

(i) With the inclusion in gross income of the beneficiary for each of such 3 years of the amount determined under subparagraph (2) of this paragraph, and

(ii) Without such inclusion.

The difference between the amount of tax computed under subdivision (i) of this subparagraph for each year and the amount computed under subdivision (ii) of this subparagraph for that year is the additional tax resulting from the inclusion in gross income for that year of the amount determined under subparagraph (2) of this paragraph. If the number of preceding taxable years of the trust, on the last day of which an amount is deemed under section 666(a) to have been distributed, is less than three, the taxable years of the beneficiary for which this recomputation is made shall equal the number of years in which an amount is deemed under section 666(a) to have been distributed, commencing with the taxable year of the beneficiary in which the accumulation distribution is paid, credited, or required to be distributed to him. If the beneficiary was not alive during one of the two taxable years immediately preceding the taxable year, the tax resulting from the inclusion of the amount determined in subparagraph (2) of this paragraph in the gross income of the beneficiary will be computed only for the taxable year in which the accumulation distribution was paid, credited, or required to be distributed to him and the preceding year during which the beneficiary was alive. In the event the beneficiary was not alive during either of the 2 years immediately preceding the taxable year in which the accumulation distribution was paid, credited, or required to be distributed, the tax shall be computed on the basis of the beneficiary's taxable year without regard to the inclusion in income required by section 668(a) of any amount other than pursuant to section 669(a)(1)(B). For example, assume that a foreign trust created by a U.S. person accumulates $3,000 of income in 1964 and $7,000 in 1963 and then distributes the accumulated income on January 1, 1965, to a beneficiary who is a U.S. person. The limitation on tax is determined by recomputing the beneficiary's gross income for 1964 and 1965 by adding $5,000 to his gross income for each year. If the same distribution were made to an infant who was born in 1965, the limitation on tax would be computed by adding $5,000 to his gross income for such year. In the case of the infant, the resulting increase in tax would be multiplied by two to arrive at the limitation on the increase in his tax for 1965 attributable to such distribution.

(4) Fourth, add the additional taxes resulting from the application of subparagraph (3) of this paragraph for the taxable year and the 2 taxable years (or the 1 taxable year, where applicable) immediately preceding the year in which the accumulation distribution is paid, credited, or required to be distributed and then divide this amount by three (or two, where applicable). The resulting amount is then multiplied by the number of preceding taxable years of the trust on the last day of which an amount is deemed under section 666(a) to have been distributed (previously determined under subparagraph (1) of this paragraph). The resulting amount is the tax, under the short-cut throwback method provided in section 669(a)(1)(B), which is attributable to the amounts treated under section 668(a) as having been received by the beneficiary from a foreign trust created by a U.S. person on the last day of a preceding taxable year.

(5) Fifth, add the amount determined under subparagraph (4) of this paragraph to the beneficiary's tax for the taxable year in which the accumulation distribution was paid, credited, or required to be distributed to him, computed without inclusion of the accumulation distribution in gross income for that year. The total is the beneficiary's income tax for such year.

(b) *Credit for tax paid by trust.* The income taxes deemed distributed to a beneficiary in the manner described in paragraphs (c) and (d) of § 1.669(a)–2 are included in the beneficiary's gross income for purposes of the computations required by this section. To the extent provided in § 1.669(a)–2, credits for such taxes are allowable to the beneficiary. In the computations under the short-cut throwback method provided in section 669(a)(1)(B), the rules set forth in section 662(b) and § 1.662(b)–1 shall be applied in determining the character, in the hands of the beneficiary, of the amounts, including taxes includible in the distribution or deemed distributed, treated as received by a beneficiary in prior taxable years. For example, if one-fifth of such amounts represents tax-free income, then one-fifth of the amount determined under paragraph (a)(2) of this section shall be treated as tax-free income.

§ 1.669(b) Statutory provisions; special rules applicable to certain foreign trusts; information requirements.

SEC. 669. *Special rules applicable to certain foreign trusts* * * *

(b) *Information requirement.* The election of a beneficiary to apply the limitations on tax provided in subsection (a) of this section shall not be effective unless the beneficiary at the time of making the election supplies such information with respect to the operation and accounts of the trust, for each taxable year on the last day of which an amount is deemed distributed under section 666(a), as the Secretary or his delegate may by regulations prescribe.

(Sec. 669(b) as added by sec. 7(e), Rev. Act 1962 (76 Stat. 986))

§ 1.669(b)–1 Information requirements.

The election of a beneficiary who is a U.S. person to apply the limitations on tax provided in section 669(a) shall not be effective unless the beneficiary, at or before the time the election is made, supplies, in a letter addressed to the district director for the internal revenue district in which the taxpayer files his return (or the Director of International Operations where appropriate), or in a statement attached to his return, the following information with respect to the operation and accounts of the foreign trust created by a U.S. person for each of the preceding taxable years, on the last day of which an amount is deemed distributed under section 666(a):

(a) The gross income of the trust: The gross income should be separated to show the amount of each type of income received by the trust and to identify its source. For example, the beneficiary should list separately, by type (dividends, rents, capital gains, taxable interest, exempt interest, etc.) and source (name and country of payor), each item of income included in the gross income of the trust. For this purpose, the gross income of the trust includes gross income from U.S. sources which is exempt from taxation under section 894.

(b) The amount of tax withheld under section 1441 by the United States on income from sources within the United States.

(c) The amount of the tax paid to each foreign country by the trust.

(d) The expenses of the trust attributable to each type of income disclosed in paragraph (b) of this section, and the general expenses of the trust.

(e) The distributions, if any, made by the trust to the beneficiaries (including those who are not U.S. persons). These distributions should be separated into amounts of income required to be distributed currently within the meaning of section 661(a)(1), and any other amounts properly paid, credited, or required to be distributed within the meaning of section 661(a)(2).

(f) Any other information which is necessary for the computation of tax on the accumulation distribution as provided in section 669(a).

(g) If the foreign trust created by a U.S. person is less than the entire foreign trust, the information listed in paragraphs (a) through (f) of this section shall also be furnished with respect to that portion of the entire foreign trust which is not a foreign trust created by a U.S. person.

§ 1.669(b)–2 Manner of exercising election.

(a) *By whom election is to be made.* Except as otherwise provided in this paragraph, a taxpayer whose tax liability is affected by the election shall make the election provided in section 669(a). In the case of a partnership, or a corporation electing under the provisions of Subchapter S, Chapter 1 of the Code, the election shall be exercised by the partnership or such corporation.

(b) *Time and manner of making election.* The election under section 669(a) may be made, or revoked, at any time before the expiration of the period provided in section 6501 for assessment of the tax. If an election is revoked, a new election may be made at any time before the expiration of such period. The election (or a revocation of an election) may

be made in a letter addressed to the district director of internal revenue for the district in which the taxpayer files his tax return (or the Director of International Operations where appropriate) or may be made in a statement attached to the return. In any case where all the information described in § 1.669(b)–1 is not furnished at or before the time the beneficiary signifies his intention of making an election and by reason thereof an election has not been made, and subsequent thereto, but before the expiration of the period provided in section 6501 for the assessment of the tax, there is furnished the required information not previously furnished, the election will be considered as made at the time such additional information is furnished.

PAR. 18. Section 1.643(a)–4 is amended to read as follows:

§ 1.643(a)–4 Extraordinary dividends and taxable stock dividends.

In the case solely of a trust which qualifies under subpart B (section 651 and following) as a "simple trust", there are excluded from distributable net income extraordinary dividends (whether paid in cash or in kind) or taxable stock dividends which are not distributed or credited to a beneficiary because the fiduciary in good faith determines that under the terms of the governing instrument and applicable local law such dividends are allocable to corpus. See section 665(e) and paragraph (b) of § 1.665(e)–1 for the treatment of such dividends upon subsequent distribution.

PAR. 19. Section 1.643(b)–2 is amended to read as follows:

§ 1.643(b)–2 Dividends allocated to corpus.

Extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, determines to be allowable to corpus under the terms of the governing instrument and applicable local law are not considered "income" for purposes of subpart A, B, C, or D, part I, subchapter J, chapter 1 of the Code. See section 643(a)(4), § 1.643(a)–4, § 1.643(d)–2, section 665(e) and paragraph (b) of § 1.665(e)–1 for the treatment of such items in the computation of distributable net income.

PAR. 20. Paragraph (a) of § 1.665(a)–1 is amended to read as follows:

§ 1.665(a)–1 Undistributed net income.

(a) The term "undistributed net income" means for any taxable year the distributable net income of the trust for that year as determined under section 643(a), less:

(1) The amount of income required to be distributed currently and any other amounts properly paid or credited or required to be distributed to beneficiaries in the taxable year as specified in paragraphs (1) and (2) of section 661(a), and

(2) The amount of taxes imposed on the trust, as defined in § 1.665(d)–1.

The application of the rule in this paragraph to the first year of a trust in which income is accumulated may be illustrated by the following example:

Example. Assume that under the terms of the trust, $10,000 of income is required to be distributed currently to A and the trustee has discretion to make additional distributions to A. During the taxable year 1954 the trust had distributable net income of $30,100 derived from royalties and the trustee made distributions of $20,000 to A. The taxable income of the trust is $10,000 on which a tax of $2,640 is paid. The undistributed net income of the trust as of the close of the taxable year 1954 is $7,460 computed as follows:

Distributable net income		$30,100
Less:		
Income currently distributable to A	$10,000	
Other amounts distributed to A	10,000	
Taxes imposed on the trust (see § 1.665(d)–1)	2,640	
		22,640
Undistributed net income		7,460

See also paragraphs (e)(1) and (f)(1) of § 1.668(b)–2 for additional illustrations of the application of the rule in this paragraph to the first year of a trust in which income is accumulated.

* * * * *

PAR. 21. Paragraph (b) of § 1.665(e)–2 is amended to read as follows:

§ 1.665(e)–2 Application of separate share rule.

* * * * *

(b) The taxes so determined for each separate share are then reduced by that portion of the credits against tax allowable to the trust under section 642(a) in computing the "taxes imposed on the trust" which bear the same relation to the total that the items of income allocable to the separate share with respect to which the credit is allowed bear to the total of such items of the trust. The amount of taxes imposed on the trust allocable to a separate share as so determined is then reduced by the amount of the taxes allowed under sections 667 and 668 as a credit to a beneficiary of the separate share on account of any accumulation distribution determined for any taxable year intervening between the year for which the determination is made and the year of an accumulation distribution with respect to which the determination is made. See paragraph (b) of § 1.665(d)–1.

PAR. 22. Paragraph (a) of § 1.666(b)–1 is amended to read as follows:

§ 1.666(b)–1 Total taxes deemed distributed.

(a) If an accumulation distribution is deemed under § 1.666(a)–1 to be distributed on the last day of a preceding taxable year and the amount is not less than the undistributed net income for such preceding taxable year, then an additional amount equal to the "taxes imposed on the trust" (as defined in § 1.665(d)–1) for such preceding taxable year is likewise deemed distributed under section 661(a)(2). For example, a trust has taxable income of $11,032 (not including any capital gains) and undistributed net income of $8,000 for the taxable year 1954. The taxes imposed on the trust are $3,032. During the taxable year 1955, an accumulation distribution of $8,000 is made to the beneficiary, which is deemed under § 1.666(a)–1 to have been distributed on the last day of 1954. The taxes imposed on the trust for 1954 of $3,032 are also deemed to have been distributed on the last day of 1954 since the 1955 accumulation distribution is not less than the 1954 undistributed net income. Thus, a total of $11,032 will be deemed to have been distributed on the last day of 1954 because of the accumulation distribution of $8,000 made in 1955.

* * * * *

PAR. 23. Paragraph (a) of § 1.666(c)–1 is amended to read as follows:

§ 1.666(c)–1 Pro rata portion of taxes deemed distributed.

(a) If an accumulation distribution is deemed under § 1.666(a)–1 to be distributed on the last day of a preceding taxable year and the amount is less than the undistributed net income for such preceding taxable year, then an additional amount is likewise deemed distributed under section 661(a)(2). The additional amount is equal to the taxes imposed on the trust, as defined in § 1.665(d)–1, for such preceding taxable year, multiplied by the fraction of which the numerator is the amount of the accumulation distribution and the denominator is the undistributed net income for such preceding taxable year. See paragraph (b) of example (1) and paragraphs (c) and (f) of example (2) in § 1.666(c)–2, and paragraph (f)(2) of § 1.668(b)–2 for illustrations of this paragraph.

* * * * *

PAR. 24. Paragraph (a) of § 1.667–1 is amended to read as follows:

§ 1.667–1 Denial of refund to trusts.

(a) If an amount is deemed under section 666 to be an amount paid, credited, or required to be distributed on the last day of a preceding taxable year, the trust is not allowed a refund or credit of the amount of "taxes imposed on the trust", as defined in § 1.665(d)–1, which would not have been payable for the preceding taxable year had the trust in fact made such distribution on the last day of such year. However, such taxes are allowed as a credit under section 668(b) against the tax of the beneficiaries who are treated as having received the distributions in the preceding taxable year. The amount of taxes which may not be refunded or credited to the trust under this paragraph and which are allowed as a credit under section 668(b) against the tax of the beneficiaries, is an amount equal to the excess of:

(1) The taxes imposed on the trust (as defined in section 665(d) and § 1.655(d)–1) for any preceding taxable year (computed without regard to the accumulation distribution for the taxable year) over

(2) The amount of taxes for such preceding taxable year which would be imposed on the undistributed portion of distributable net income of the trust for

such preceding taxable year after the application of subpart D (section 665 and following), part I, subchapter J, chapter 1 of the Code, on account of the accumulation distribution determined for the taxable year.

It should be noted that the credit under section 667 is computed by the use of a different ratio from that used for computing the amount of taxes deemed distributed under section 666(c).

* * * * *

PAR. 25. Paragraph (a)(2) of § 1.671–3 is amended to read as follows:

§ 1.671–3 Attribution or inclusion of income, deductions, and credits against tax.

(a) * * *

(2) If the portion treated as owned consists of specific trust property and its income, all items directly related to that property are attributable to the portion. Items directly related to trust property not included in the portion treated as owned by the grantor or other person are governed by the provisions of subparts A through D (section 641 and following), part I, subchapter J, chapter 1 of the Code. Items that relate both to the portion treated as owned by the grantor and to the balance of the trust must be apportioned in a manner that is reasonable in the light of all the circumstances of each case, including the terms of the governing instrument, local law, and the practice of the trustee if it is reasonable and consistent.

* * * * *

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 69–490; Filed, Jan. 16, 1969; 8:45 a.m.]

SUBCHAPTER A—INCOME TAX

[T.D. 6691]

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

Deduction for Interest on Installment Purchases

On December 4, 1968, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 163 of the Internal Revenue Code of 1954 to reflect the changes made by section 224(c) of the Revenue Act of 1964 (78 Stat. 79) and to make a clarifying change therein was published in the FEDERAL REGISTER (33 F.R. 18039). No objection to the rules proposed having been received during the 30-day period prescribed in the notice, the regulations as proposed are hereby adopted.

(Section 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: January 13, 1969.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 163 of the Internal Revenue Code of 1954 to section 224(c) of the Revenue Act of 1964 (78 Stat. 79) and to make a clarifying change therein, such regulations are amended as follows:

PARAGRAPH 1. Section 1.163 is amended by revising section 163(b)(1) and the historical note to read as follows:

§ 1.163 Statutory provisions; interest.

Sec. 163. *Interest.* * * *

(b) *Installment purchases where interest charge is not separately stated*—(1) *General rule.* If personal property or educational services are purchased under a contract—

(A) Which provides that payment of part or all of the purchase price is to be made in installments, and

(B) In which carrying charges are separately stated but the interest charge cannot be ascertained,

then the payments made during the taxable year under the contract shall be treated for purposes of this section as if they included interest equal to 6 percent of the average unpaid balance under the contract during the taxable year. For purposes of the preceding sentence, the average unpaid balance is the sum of the unpaid balance outstanding on the first day of each month beginning during the taxable year, divided by 12. For purposes of this paragraph, the term "educational services" means any service (including lodging) which is purchased from an educational institution (as defined in section 151(e)(4)) and which is provided for a student of such institution.

* * * * *

[Sec. 163 as amended by sec. 1 (a) and (c), Act of Apr. 10, 1963 (Public Law 88–9, 77 Stat. 6); sec. 224(c), Rev. Act 1964 (78 Stat. 79)]

PAR. 2. Section 1.163–2 is amended by revising paragraph (a), by adding examples (4) and (5) to paragraph (d), and by revising paragraph (e). These amended and added provisions read as follows:

§ 1.163–2 Installment purchases where interest charge is not separately stated.

(a) *In general.* (1) Whenever there is a contract with a seller for the purchase of personal property providing for payment of part or all of the purchase price in installments and there is a separately stated carrying charge (including a finance charge, service charge, and the like) but the actual interest charge cannot be ascertained, a portion of the payments made during the taxable year under the contract shall be treated as interest and is deductible under section 163 and this section. Section 163(b) contains a formula, described in paragraph (b) of this section, in accordance with which the amount of interest deductible in the taxable year must be computed. This formula is designed to operate automatically in the case of any installment purchase, without regard to whether payments under the contract are made when due or are in default. For applicable limitations when an obligation to pay is terminated, see paragraph (c) of this section.

(2) Whenever there is a contract with an educational institution for the purchase of educational services providing for payment of part or all of the purchase price in installments and there is a separately stated carrying charge (including a finance charge, service charge, and the like) but the actual interest charge cannot be ascertained, a portion of the payments made during the taxable year under the contract shall be treated as interest and is deductible under section 163 and this section. See paragraphs (b) and (c) of this section for the applicable computation and limitations rules. For purposes of section 163(b) and this section, the term "educational services" means any service (including lodging) which is purchased from an educational institution (as defined in section 151(e)(4) and paragraph (c) of § 1.151–3) and which is provided for a student of such institution.

(3) Section 163(b) and this section do not apply to a contract for the loan of money, even if the loan is to be repaid in installments and even if the borrowed amount is used to purchase personal property or educational services. In cases to which the preceding sentence applies, the portion of the installment payment which constitutes interest (as distinguished from payments of principal and charges such as payments for credit life insurance) is deductible under section 163(a) and § 1.163–1.

* * * * *

(d) *Illustrations.* * * *

Example (4). (1) On September 15, 1968, C registered at X University for the 1968–69 academic year. C entered into an agreement with the X University for the purchase during such academic year of educational services (including lodging and tuition) for a total fee of $1,000, including a separately stated carrying charge of $50. Under the terms of the agreement, an initial payment of $200 was to be made by C on September 15, 1968, and the balance was to be paid in 8 monthly installments of $100 each, on the 15th day of each month commencing with October 1968. C made all of the required 1968 payments. Assuming that C is a cash method, calendar year taxpayer and that no other installment purchases of services or property were made, the amount to be treated as interest in 1968 is $10.50, computed as follows:

YEAR 1968

First day of:	*Unpaid balance outstanding*
January–September	$0
October	800
November	700
December	600
	2,100

The sum of unpaid balances ($2,100) divided by 12 is $175; 6 percent thereof is $10.50. The carrying charges attributable to 1968 are $18.75 (i.e., the total carrying charges ($50), divided by the total number of payments (8), multiplied by the number of payments made in 1968 (3)). Since the amount to be treated as interest in 1968 ($10.50) does not exceed the carrying charges attributable to 1968 ($18.75), the limitation set forth in paragraph (c) of this section is not applicable.

(ii) The result in this example would be the same even if the X University assigned the agreement to a bank or other financial institution and C made his payments directly to the bank or other financial institution.

Example (5). On September 15, 1968, D registered at Y University for the 1968–69 academic year. The tuition for such year was $1,500. In order to pay his tuition, D borrowed $1,500 from the M Corporation, a lending institution, and remitted that sum to the Y University. The loan agreement between M Corporation and D provided that D was to repay the loan, plus a service charge, in 10 equal monthly installments, on the first day of each month commencing with October 1968. The service charge consisted of interest and the cost of credit life insurance on D's life. Since section 163(b) and this section do not apply to a contract for the loan of money, D is not entitled to compute his interest deduction with respect to his loan from M Corporation under such sections. D may deduct that portion of each installment payment which constitutes interest (as distinguished from payments of principal and the charge for credit life insurance) under section 163(a) and § 1.163–1, provided that the amount of such interest can be ascertained.

(e) *Effective date.* Except in the case of payments made under a contract for educational services, the rule provided in section 163(b) and this section applies to payments made during taxable years beginning after December 31, 1953, and ending after August 16, 1954, regardless of when the contract of sale was made. In the case of payments made under a contract for educational services, the rule provided in section 163(b) and this section applies to payments made during taxable years beginning after December 31, 1963, regardless of when the contract for educational services was made.

[F.R. Doc. 69–655; Filed, Jan. 16, 1969; 8:49 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER I—ANCHORAGES

[CGFR 68–161]

PART 110—ANCHORAGE REGULATIONS

Subpart A—Special Anchorage Areas

Subpart B—Anchorage Grounds

GREAT KILLS HARBOR, N.Y.

1. The Commander, Third Coast Guard District, New York, N.Y., by letter dated November 29, 1968, requested the establishment of a special anchorage area in Great Kills Harbor in General Anchorage No. 28, Raritan Bay, New York Harbor. A public notice dated October 17, 1968, was issued by Commander, Third Coast Guard District, New York, N.Y., describing the proposed anchorage. All known interested parties were notified and requested to comment on the proposal. No objections were received. Therefore, the request is granted and the establishment of a special anchorage area as described in 33 CFR 110.60 (r–1) below is granted, subject to the right to change the requirements and to amend the regulations if and when necessary in the public interest.

2. The purpose of this document is to establish and describe the special anchorage area in Great Kills Harbor in General Anchorage No. 28, Raritan Bay, New York Harbor, as described in 33 CFR 110.60 (r–1) below, wherein vessels not more than 65 feet in length, when at anchor in such special anchorage area, are not required to carry or exhibit anchor lights The area is principally for use by yachts and other recreational craft. The issuing of mooring permits and the assignment of moorings is under the jurisdiction of the Captain of the Port, New York. The Captain of the Port regulations in 33 CFR 110.155(l)(7) apply.

3. The further purpose of this document is to amend the description of the anchorage grounds in 33 CFR 110.155(f)(3).

4. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and the delegation in 49 CFR 1.4(a)(3) of the Secretary of Transportation under 49 U.S.C. 1655(g)(1), 33 CFR Part 110 is amended as follows, to become effective on and after 30 days after publication of this document in the FEDERAL REGISTER.

Subpart A—Special Anchorage Areas

1. Section 110.60 is amended by adding a new paragraph (r–1) following § 110.60(r), reading as follows:

§ 110.60 Port of New York and vicinity.

* * * * *

(r–1) *Great Kills Harbor.* Beginning at a point on the shoreline at latitude 40°32'05.6", longitude 74°08'24.2"; thence to latitude 40°32'06.7", longitude 74°08'27.6"; thence to latitude 40°-32'19", longitude 74°08'23.1"; thence to latitude 40°32'27.8", longitude 74°08'-25.9"; thence to latitude 40°32'40.2", longitude 74°08'10.5"; thence to latitude 40°32'44.2"; longitude 74°08'12.9"; thence along the northern and eastern shoreline to the point of beginning.

NOTE: The special anchorage area is principally for use by yachts and other recreational craft. A temporary float or buoy for marking the location of the anchor of a vessel at anchor may be used. Fixed mooring piles or stakes are prohibited. Vessels shall be anchored so that no part of the vessel comes within 50 feet of the marked channel. No vessel shall be anchored in such a manner as to interfere with the use of a mooring buoy authorized to be placed by the Captain of the Port, New York. No mooring buoy shall be placed in this special anchorage area except as authorized by the Captain of the Port, New York. The Captain of the Port regulations in § 110.155(l)(7) apply.

This special anchorage area is within the limits of General Anchorage No. 28 described in § 110.155(f)(3).

(R.S. 4233, as amended, 28 Stat. 647, as amended, 30 Stat. 98, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 180, 258, 322; 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

Subpart B—Anchorage Grounds

§ 110.155 [Amended]

2. Paragraph (f)(3) of § 110.155 is amended by adding an explanatory note at the end of the paragraph, reading as follows:

NOTE: A special anchorage area in this anchorage is described in § 110.60 (r–1).

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 471, 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

Dated: January 13, 1969.

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

[F.R. Doc. 69–601; Filed, Jan. 16, 1969; 8:46 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter II—Forest Service, Department of Agriculture

PART 221—TIMBER

Export Restrictions

Part 221 of Title 36, Code of Federal Regulations, is amended by revoking paragraph (c) of § 221.3 and by adding the following:

§ 221.25 Timber export restrictions, requirements for domestic processing.

The regulations in this section are to implement the provisions of Part IV of the Foreign Assistance Act of 1968 (82 Stat. 966) which amends the Act of April 12, 1926 (16 U.S.C. 616), and limits the amount of unprocessed timber which may be sold for export from Federal lands located west of the 100th Meridian to not more than 350 million board feet for each of the calendar years 1969 through 1971, inclusive. The Secretary of Agriculture, after public hearing, is authorized to designate as available for export specific quantities and species of unprocessed timber surplus to the needs of domestic users and processors in addition to the quantity stated above. The Secretary may issue rules and regulations to carry out the purposes of the Act, including the prevention of substitution of timber restricted from export for exported non-Federal timber, and to exclude from the limitations imposed by the Act sales having an appraised value of less than $2,000.

(a) Unless restricted as provided in this section or unless it is determined by the Secretary of Agriculture that the supply of timber for local use is endangered, timber lawfully cut on any National Forest may be exported from the State where grown to any other State for processing. As used in this paragraph, "supply of timber for local use" means the supply of timber necessary for consumption by local users.

(b) Unprocessed timber from National Forest System lands located west of the

100th Meridian shall not be sold for export from the United States during the period January 1, 1969, through December 31, 1971, except that such timber may be sold for export from the United States as follows:

(1) A total annual volume which, together with a volume of unprocessed timber from other Federal lands located west of the 100th Meridian, does not exceed 350 million board feet;

(2) Timber in sales of less than $2,000 appraised value;

(3) After public hearing, such specific quantities and species of unprocessed timber as determined by the Chief, Forest Service, to be surplus to the needs of domestic users and processors.

The regulations in this section shall apply to timber settlements made pursuant to § 221.29 and to timber sales, including those set aside under the Small Business Act, but shall not apply to any sales or settlements made prior to January 1, 1969.

(c) As used in this section, the term "unprocessed timber" shall mean any logs such as sawlogs, peeler logs, and pulp logs; cants and squares to be subsequently remanufactured exceeding a nominal 8 inches in thickness; and split or round bolts, or other roundwood not processed to standards and specifications suitable for end-product use. Unprocessed timber shall not mean timber processed into the following:

(1) Lumber and construction timbers, regardless of size, manufactured to standards and specifications suitable for end-product uses;

(2) Chips, pulp, and pulp products (except that, in Alaska, chips from logging and milling wastes only shall be considered to be processed);

(3) Green veneer and plywood;

(4) Poles and piling cut or treated for use as such;

(5) Cants, squares, and lumber cut for remanufacture, of a nominal 8 inches in thickness or less.

(d) The Secretary of Agriculture and the appropriate Secretaries of other Departments administering Federal lands west of the 100th Meridian shall determine annually the distribution among the Federal lands of the 350 million board feet of unprocessed timber which may be sold for export. The volume of exportable unprocessed timber allocated to National Forest System lands shall be distributed by the Chief, Forest Service, among Forest Service Regions, the National Forests, and individual timber sales.

(e) No specific quantities and species of unprocessed timber may be sold for export as surplus to the needs of domestic users and processors unless: A public hearing is authorized by the Chief, Forest Service, and is held to seek advice and counsel as to the quantities and species of unprocessed timber, if any, surplus to the needs of domestic users and processors, and a determination is made by the Chief, Forest Service, that the specific quantities and species of unprocessed timber are surplus to the needs of domestic users and processors. The Chief, Forest Service, shall give notice in the FEDERAL REGISTER of the quantities and species of unprocessed timber which are determined to be surplus. Hearings will be conducted in accordance with the following procedures:

(1) Notice will be published in a newspaper of general circulation within the area of the specific quantities and species under consideration at least 15 days prior to the hearing, and known parties or organizations with special interest in the quantities and species should be notified directly.

(2) The time, place, and conduct of the hearing will be coordinated with the Department of the Interior and held at a convenient, centralized location within the area of the specific quantities and species under consideration.

(3) The hearing record shall remain open for at least 5 calendar days following the hearing for receipt of additional written statements.

(4) The hearing record shall be sent to the Chief, Forest Service, with the Regional Forester's findings and recommendations.

(f) Where appropriate contracts for the sale of timber from National Forest System lands located west of the 100th Meridian shall include:

(1) Restrictions on the export of unprocessed timber, including a provision that if the purchaser sells, exchanges, or otherwise disposes of the included timber restricted from export, the purchaser shall require his buyer, exchangee, or other recipient to enter into an agreement not to export unprocessed timber as defined in this section;

(2) The quantities and species of unprocessed timber, if any, which may be exported;

(3) Requirements for showing compliance with the timber export restrictions and exemptions.

(g) Subject to the other provisions of this Section, timber cut from the National Forests in the State of Alaska may not be exported from Alaska in the form of logs, cordwood, bolts, or other similar products necessitating primary manufacture elsewhere without prior consent of the Regional Forester. This requirement is determined to be necessary in order to assure the development and continued existence of adequate wood processing capacity in that State essential to the sustained utilization of timber from the National Forests located therein which is geographically isolated from other processing capacity. In determining whether consent will be given to the export of such timber, consideration will be given, among other things, to whether such export will (1) permit a more complete utilization of material on areas being logged primarily for products for local manufacture, (2) prevent loss or serious deterioration of logs unsalable locally because of an unforeseen loss of market, (3) permit the salvage of timber damage by wind, insects or fire, (4) bring into use a minor species of little importance to local industrial development, or (5) provide material required to meet national emergencies or to meet urgent and unusual needs of the Nation.

(30 Stat. 34, 35 as amended, 16 U.S.C. 475, 476, 551; 44 Stat. 242, 82 Stat. 966, 16 U.S.C. 616)

ORVILLE L. FREEMAN,
Secretary of Agriculture.

JANUARY 13, 1969.

[F.R. Doc. 69-619; Filed, Jan. 16, 1969; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 60—Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor

PART 60-1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

Miscellaneous Amendments

Pursuant to Executive Order 11246 (30 F.R. 12319), as amended by Executive Order 11375 (32 F.R. 14303), 41 CFR Part 60-1, as revised on May 28, 1968 (33 F.R. 7804), is hereby amended in the manner set forth below.

As these amendments concern matters relating to public contracts, neither notice of proposed rule-making, nor public participation therein, nor delay in their effective date is required by 5 U.S.C. 553. Accordingly, good cause is hereby found to dispense with notice of proposed rule-making, public participation, and delay in effective date. Therefore, these amendments shall become effective immediately.

§ 60-1.1 [Revised]

In § 60-1.1, the phrase "without regard to race, creed, color, or national origin", wherever it appears, is revised to read "without regard to race, color, religion, sex, or national origin."

§ 60-1.4 [Revised]

In § 60-1.4 (a) and (b), the phrase "without regard to race, creed, color, or national origin", wherever it appears, is revised to read "without regard to race, color, religion, sex, or national origin."

§ 60-1.8 [Revised]

In § 60-1.8(a), the phrase "on the basis of race, creed, color, or national origin", wherever it appears, is revised to read "on the basis of race, color, religion, or national origin."

§ 60-1.20 [Revised]

In § 60-1.20(a), the phrase "without regard to race, creed, color, or national origin", wherever it appears, is revised to read "without regard to race, color, religion, sex, or national origin."

§ 60-1.41 [Revised]

In § 60-1.41 (a) and (c), the phrase "without regard to race, creed, color, or national origin", wherever it appears, is revised to read "without regard to race, color, religion, sex, or national origin."

§ 60–1.42 [Revised]

In § 60–1.42(a), the phrase "because of Race, Color, Creed, or National Origin" is revised to read "because of Race, Color, Religion, Sex, or National Origin."

Section 60–1.3 is hereby amended by adding thereto a new paragraph (z) to read as follows:

§ 60–1.3 Definitions.

* * * * *

(z) The term "minority group" as used herein shall include, where appropriate, female employees and prospective female employees.

In § 60–1.7, paragraph (a)(3) is hereby revised to read as follows:

§ 60–1.7 Reports and other required information.

(a) * * *

(3) The Director, the agency or the applicant, on their own motions, may require a contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Director, agency or the applicant deems necessary for the administration of the order.

* * * * *

(E.O. 11246, 30 F.R. 12319; E.O. 11375, 32 F.R. 14303)

Signed at Washington, D.C., this 14th day of January 1969.

WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 69–664; Filed, Jan. 16, 1969; 8:50 a.m.]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 114—FEDERAL ASSISTANCE UNDER PUBLIC LAW 815, 81ST CONGRESS, AS AMENDED, IN CONSTRUCTION OF MINIMUM SCHOOL FACILITIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Federal financial assistance made pursuant to the regulations set forth below is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare and approved by the President to effectuate the provisions of section 601 (42 U.S.C. 2000d) of the Civil Rights Act of 1964 (Public Law 88–352).

Part 114, 45 CFR, Chapter I, establishes regulations for applications for Federal grants for school construction under Public Law 815, 81st Congress, as amended. The regulations, among other things, provide for cutoff dates for filing such applications and provide for priority indices to establish the order of approval of such applications and of making payments from funds available on any cutoff date.

Part 114 is revised to incorporate amendments to sections 1 through 15 of Public Law 81–815, by Public Law 90–247, approved January 2, 1968.

Part 114, as revised, reads as follows:

Subpart A—Definitions

Sec.
114.1 Definitions.

Subpart B—Filing Complete Applications and Determining Priority Indices

114.2 Cutoff dates for filing applications.
114.3 Procedure if funds are inadequate to make all payments.
114.4 Determination of priority indices for applications.
114.5 Determination of subpriority indices for applications.
114.6 Priority and approval conditioned upon readiness to proceed with construction.

Subpart C—Policy Determinations in Processing of Applications

114.11 Membership of nonresident pupils.
114.12 Determination of available and usable school facilities.
114.13 Determination of undue financial burden.
114.14 Additional payments under section 8 of the Act.
114.15 School facilities for children whose membership is of temporary duration only.
114.16 Determination of eligibility under section 14.

Subpart D—Criteria for Waivers Under the Act

114.31 Criteria for waiver under section 5(e) of minimum number requirement of 20 in section 5(c).
114.32 Criteria for waiver under section 5(e) of percentage requirements for federally connected and non-federally connected membership in section 5(c).
114.33 Criteria for waiver under section 5(e) of the Act for children residing on Federal property.
114.34 Criteria for waiver of substantial percentage requirement in section 14(a).
114.35 Criteria for waiver of substantial percentage requirement in section 14(b).

Subpart E—Certification of Payments

114.41 Certification of payments.
114.42 Certification of payments, section 14.

Subpart F—General Provisions

114.51 Works of art.
114.52 School facilities accessible to, and usable by, the handicapped.
114.53 Excellence of architecture and design of minimum school facilities.
114.54 Flood plains.
114.55 Preceding provisions not exhaustive of jurisdiction of the Commissioner.

Subpart G—Retention of Records

114.61 Retention of records.

AUTHORITY: The provisions of this Part 114 issued under sec. 12, 72 Stat. 554. Interpret or apply secs. 3–6, 8–9, 13–15, 72 Stat. 548.

Subpart A—Definitions

§ 114.1 Definitions.

All terms used in this part which are defined in the Act and not defined in this section shall have the meaning given to them in the Act. As used in this part, for purposes of this part and determinations under the Act as hereinafter defined, the following terms shall have the meaning indicated in paragraphs (a) thru (v) of this section:

(a) The "Act" means Public Law 815, 81st Congress (64 Stat. 967), as amended.

(b) "Commissioner" means the Commissioner of Education, Department of Health, Education, and Welfare.

(c) "Local educational agency" means a board of education or other legally constituted local school authority (including, where applicable, a State agency which directly operates and maintains facilities for providing free public education) having exclusive administrative control and direction of free public education, or some phase thereof, in a county, township, independent, or other school district located within a State. If the local educational agency so defined does not have responsibility for providing school facilities and such responsibility is vested in a State agency, the term shall include such State agency together with the agency having exclusive administrative control and direction of other phases of free public education.

(d) "Free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge and which is provided as elementary or secondary school education in the applicable State. Elementary education may include kindergarten education meeting the above criteria.

(e) An "applicant" is a local educational agency which has filed a complete application for assistance in school construction under the Act and this part.

(f) A "complete application" in the case where an applicant submits only one project by a filing date, consists of both Part I (Maximum Grant) and Part II (Project) of the application Form RSF–2 prescribed by the Commissioner for use under this Act, properly completed and executed, together, with all documents, amendments, and communications in support thereof. Where applicant submits more than one project by a filing date, the Part I form and all Part II forms, properly executed and completed, together with all documents, amendments, and communications in support thereof on file at that time, shall be considered as the "complete application." Where more than one Part II application is submitted by an applicant, the applicant shall indicate the order in which its project applications are to be considered by the Commissioner. Only applications meeting the conditions for approval under the Act shall be considered complete applications.

(g) "Project application" means Form RSF–2, Part II, properly completed and executed, making application for Federal assistance for constructing or providing school facilities under the Act.

(h) "Filed" means that all necessary parts of the complete application, bearing the required certifications and verifications by the State educational

agency, are received by the Commissioner, or enclosed in a cover addressed to the Commissioner and postmarked on or before the applicable filing date.

(i) "Minimum school facilities" means those instructional and auxiliary rooms and initial equipment necessary to operate a program of free public education for the school members of the applicant at normal capacity in accordance with the laws and customs of the State. They do not include athletic stadiums, or structures, or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public.

(j) "Available and usable school facilities" means those facilities containing pupil stations counted in ascertaining children who are "unhoused" or without "minimum school facilities."

(k) The "normal capacity" of a school room is the number of pupil stations which the room accommodates under ordinary conditions in accordance with the laws and customs of the State governing free public education. Where kindergartens may be conducted on a two-session-per-day basis the number of pupil stations of the rooms used for that purpose shall be doubled in determining kindergarten needs.

(l) Children who are "unhoused" or without "minimum school facilities" are those children in excess of the normal capacity of available and usable minimum school facilities.

(m) "Contracts-let date" is the date on which the Commissioner's notice setting the cutoff dates for the receipt of applications for a fiscal year is filed with the Office of the Federal Register.

(n) Unless governed by State law or State regulation, a "member" of a class is a child who presents himself at school and is placed on the current roll. Such a child shall be considered a "member" from the date of enrollment until he permanently leaves the class or school for one of the causes recognized as sufficient by the State. The date of permanent withdrawal should be the date on which it is officially known that the pupil has left school, and not necessarily the first day after the date of last attendance.

(o) "Average daily membership" for a given school in a given school year is the aggregate days of membership of individual children in the school divided by the number of days school was actually in session. Only days on which pupils were under the guidance and direction of teachers in the teaching process may be considered as days in session. The average daily membership for groups of schools having varying lengths of terms is the sum of the average daily memberships obtained for the individual schools.

(p) "Membership of children of temporary duration only" means the school membership of children whose residence in the school area the Commissioner determines probably will be for less than 6 years beyond the date of the approval of the complete applications and whose number is required to be excluded from computation of maximum payments under section 5 of the Act.

(q) The "piority indices" are the indices established pursuant to this part based on relative urgency of need for the purpose of determining, under the Act the order of approval of project applications, and the order of payments.

(r) The "subpriority indices" are the indices established pursuant to this part for the purpose of determining the order of approval of project applications having identical priority indices, when appropriated funds are insufficient to fund all such project applications.

(s) The term "base year" means the third or fourth school year preceding the fiscal year in which an application was filed under the Act, as may be designated in the application, except that in the case of an application based on children referred to in paragraphs (2) or (3) of section 5(a) of the Act, the base year shall in no event be later than the regular school year 1965–66.

(t) The term "increase period" means the period of four consecutive regular school years immediately following such base year.

(u) For the purpose of eligibility and entitlement under section 5(a)(3) of the Act, the estimated number of children in average daily membership during the year shall be 97 percent of the difference between (1) the total number of children in membership whose parents are employed (as determined by a parent-pupil survey made as of any specific date during the increase period) in establishments with respect to which a responsible official thereof certifies that there has been an increase in employment subsequent to the base year in order to fulfill Federal contracts or subcontracts, and (2) the number of such children whose parents moved into the applicant school district subsequent to such a base year.

(v) "Works of art" means those items, which may be in the nature of fixtures, that are incorporated in school facilities primarily because of their esthetic value. The cost of a work of art that is in the nature of a fixture shall be the estimated additional cost of incorporating those special esthetic features which exceed the general requirement of excellence of architecture and design.

(20 U.S.C. 633, 634, 635, 645)

Subpart B—Filing Complete Applications and Determining Priority Indices

§ 114.2 Cutoff dates for filing applications.

(a) Pursuant to section 3 of the Act, the Commissioner will from time to time set dates by which applications for payments under the Act with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 5(a) of the Act shall be not later than June 30, 1970.

(b) The cutoff dates for applications during each fiscal year will be set by the Commissioner by notices published in the FEDERAL REGISTER.

(20 U.S.C. 633)

§ 114.3 Procedure if funds are inadequate to make all payments.

(a) Section 3 of the Act provides that the Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under the Act and remaining available on any cutoff date for payment to local educational agencies are less than Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this Act have not already been obligated). Only applications meeting the conditions for approval under this Act (other than section 6(b)(2)(C)) shall be considered applications for purposes of the preceding sentence.

(b) With respect to applications made under section 14 of the Act, section 14 (d) provides in part as follows:

> In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extent of the Federal responsibility.

(20 U.S.C. 633, 644)

§ 114.4 Determination of priority indices for applications.

When the Commissioner has set a date by which complete applications must be filed, the priority indices for approval of such applications shall be determined as follows:

(a) A priority index will be determined for the first construction project for each applicant under section 6 or section 14 of the Act by adding (1) the percentage that the estimated number of federally connected children countable for payment in the school district (or in the approved attendance area except under section 14) is of the total estimated membership of all children in such an area at the close of the applicable period to (2) the percentage of the estimated school membership within the school district (or in the approved attendance area except under section 14) which at the same time is without minimum school facilities. However, in no case shall the amount used in determining the priority index exceed twice the percentage in subparagraph (1) of this paragraph. No priority, except under section 14, shall be established for any applicant having less than 20 unhoused children in the school district (or in the approved attendance area).

(b) In those cases where an applicant has filed more than one project application, the priority index for the second project will be determined by: (1) Dividing the normal capacity of the first project by the total estimated membership at the close of the period and (2) reducing the applicant's priority index by twice the percentage so obtained. Where more than two project applications have been filed, the applicant's priority index for each succeeding project shall be reduced

by the cumulative total capacity, as provided in the first sentence of this paragraph, of all the approved projects of the applicant.

(20 U.S.C. 633, 644)

§ 114.5 Determination of subpriority indices for applications.

(a) In the event that the appropriated funds are sufficient to fund only a portion of the project applications with identical priority indices as determined under section 114.4 (a) or (b) of this part, the subpriority index (relative position) of such project applications shall be determined by computing the percentage that the estimated number of the federally connected children countable for payment in the school district (or in the approved attendance area except under section 14) is of the total estimated membership of all children in such an area at the close of the applicable period.

(b) In those cases where an applicant has more than one eligible project application in an identical priority index group, the subpriority index of the first project in such group will be computed in accordance with paragraph (a) of this section, and the subpriority index of the second project will be determined by (1) dividing the normal capacity of the first project by the total estimated membership at the close of the applicable period and (2) reducing the applicant's subpriority index as determined in paragraph (a) of this section by twice the percentage so obtained. The subpriority index for each succeeding project will be reduced by the cumulative total capacity, as provided in the first sentence of this paragraph, of all the approved projects of the applicant.

(20 U.S.C. 633, 644)

§ 114.6 Priority and approval conditioned upon readiness to proceed with construction.

Initial approval of a project application meeting the conditions for approval under the Act and under this part will be subject to cancellation in the event the applicant is not ready to proceed with construction within 120 days after the date of initial approval unless such period is extended by the Commissioner for good cause shown; and the applicant's rights to approval and payment may be subordinated by reason thereof to other project applications of lower rank or the applicant may forfeit its priority in the discretion of the Commissioner.

(20 U.S.C. 633, 644)

§§ 114.7–114.10 [Reserved]

Subpart C—Policy Determinations in Processing of Applications

§ 114.11 Membership of nonresident pupils.

For purposes of sections 5, 8, 9, and 14 of the Act and the regulations in this part, in determining an applicant's membership, a nonresident pupil who attends a school in the applicant district on a tuition or nontuition basis may be counted in the applicant's membership when a written agreement for such attendance has been entered into between the local educational agencies concerned, and if that agreement is approved by the Commissioner.

(20 U.S.C. 635)

§ 114.12 Determination of available and usable school facilities.

The following school facilities will be counted as usable and available in determining "unhoused children" or "children without school facilities":

(a) All school facilities which were constructed for school use and which have been used continuously for classroom purposes, unless such facilities have become unsafe or otherwise unusable to the extent that use of such facilities or partial use of such facilities has been abandoned or must be abandoned by the end of the second year following the increase period for which the application is filed. Basement rooms, hallways, or other space the use of which for classroom purposes, in view of their character, inaccessibility, or other equally cogent reason, seriously prejudices educational objectives or has impaired or will impair the health or safety of the school children, will not be considered to be available and usable. These criteria shall apply to all facilities owned by other Federal agencies which are available or which may be made available for the education of children counted by applicants.

(b) All school facilities which are under contract as of the contracts-let date.

(c) All school facilities projects which as of the date of approval of the application, have been approved for the applicant school district under the Act.

(d) With respect to section 14(a) of the Act, all minimum school facilities which with full utilization of practicably available financial resources could be provided from local, State, or other Federal sources will be considered as available and usable in making determinations, the use of which by the applicant shall be a condition precedent to Federal assistance for the providing of school facilities. In determining practicably available financial resources, the amount representing unused bonding authority of the applicant, up to the legal maximum bonding limit in the State, but not in excess of 12 percent of the assessed valuation of the applicant school district, will be considered as an available resource.

(20 U.S.C. 634, 644)

§ 114.13 Determination of undue financial burden.

A determination under section 5(c) of undue financial burden on the taxing and borrowing authority of an applicant will be made on the basis of estimated pupil membership and the number of children without minimum school facilities as of the end of the increase period covered by the application.

(20 U.S.C. 635)

§ 114.14 Additional payments under section 8 of the Act.

Pursuant to section 8 of the Act:

(a) Not to exceed 10 percent of any amount appropriated under the Act exclusive of any sums appropriated for administration) is reserved and may be used by the Commissioner to make grants to applicants under the Act (except section 14 thereof) when (1) the application would be approved but for the applicant's inability, unless aided by such a grant, to finance the non-Federal share of the cost of a project; or (2) after the approval of the application the project cannot, without such grant, be completed because of flood, fire, or similar emergency affecting either the work on the project or the applicant's ability to finance the non-Federal share of the cost of the project.

(b) Under paragraph (a)(1) of this section, a complete application (except applications under section 14 of the Act and applications with respect to which the Commissioner has waived or reduced eligibility requirements under section 5(e) of the Act) may be considered for payment of part or all of the non-Federal share of the cost of any project which does not include more than minimum facilities for unhoused children: *Provided,* (1) That the application contains a request for payment hereunder; (2) that the estimated number of children countable for payment under section 5 of the Act for the increase period equals or exceeds the number obtained by taking 12 percent of the average daily membership of the applicant district for the base year applicable to the increase period under consideration, except that if 1 or more years in the increase period were included in a previous application for which payment has been made or may be made, the percent shall be 9 percent if 1 year was included; 6 percent if 2 years were included; 3 percent if 3 years were included; (3) that the applicant has exhausted all fiscal resources, including State aid, bonding authority, and Federal aid, which are practicably available to it and is unable to pay the non-Federal share of the cost of the project; (4) that it has been reached on the priority or subpriority indices established by this part; and (5) that Federal money reserved under paragraph (a) of this section is available. The additional payment to the applicant under this provision will not exceed the cost of providing minimum school facilities for the number of unhoused children as of the end of the increase period less all financial resources practicably available to the applicant as of the same period nor will it exceed the difference between (i) the actual cost of providing minimum facilities for the federally connected pupils eligible for payment under the Act, or the average cost in the State of providing such facilities, whichever is the lesser, and (ii) the Federal funds made available to the applicant under section 5 of the Act plus local and State funds which may be made available for this purpose.

(c) Under paragraph (a)(2) of this section, a request by the applicant may be considered for the additional payment of part or all of the funds required to complete a project (to the extent that the completed project will not provide more than minimum school facilities for unhoused children) for which a project application under the Act has been approved: Provided, (1) Federal money reserved under paragraph (a) of this section is available; (2) the applicant cannot complete the project because of flood, fire, or similar emergency affecting either the work on the project or the applicant's ability to finance the non-Federal share of the cost of the project; and (3) that the applicant has exhausted all financial resources practicably available to it, including State aid, bonding authority, and Federal aid. The payment to be made under this paragraph shall not exceed the amount required to pay the additional cost caused by the emergency less any financial resources of the applicant practicably available for such purposes, including the proceeds of any insurance.

(20 U.S.C. 638)

§ 114.15 School facilities for children whose membership is of temporary duration only.

(a) If the Commissioner determines that the membership of some of the children of the applicant, representing otherwise countable Federal increases under section 5 of the Act, will be of temporary duration only, the membership of such children will be excluded in computing maximum payments under section 5.

(b) The Commissioner, when proper request therefor is made in a Part I application, (1) may make available to such applicant such temporary school facilities as may be necessary to take care of the membership of such children as the Commissioner determines will be members of the applicant's school system for a sufficient period of time to justify the expense; or (2) may, where the applicant gives assurance in a complete application that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry out the purposes of the Act) to such applicant for use in constructing school facilities an amount not greater than the amount which he estimates will be necessary to make available temporary facilities for such children, but the amount so paid shall not exceed the cost, in the school district of the applicant, of constructing minimum school facilities for such children. In no case will provision for such children be made unless they are deemed to be without minimum school facilities.

(20 U.S.C. 639)

§ 114.16 Determination of eligibility under section 14.

(a) The requirement in section 14(a)(1) of the Act will be deemed to have been met when one of the following conditions exist:

(1) The total number of children who reside on Indian lands (for whom the applicant is providing, or upon completion of the school facilities for which provision is made, will provide free public education, and whose membership in the schools of such applicant has not formed and will not form the basis for payments under other provisions of the Act) is at least 15 and represents 33⅓ percent of the total number of children for whom the applicant is providing free public education: *Provided however*, That the percentage requirement may be waived subject to the provisions in § 114.34 and § 114.35 of this part;

(2) The Indian lands in the school district of the applicant represents at least 33⅓ percent of the total land area of the school district; or

(3) The applicant district is providing, or upon completion of the school facilities for which provision is made, will provide, free public education to 100 or more children who reside on Indian lands located outside the school district.

(b) The requirement in section 14(a)(4) of the Act will be deemed to have been met when, subject to the provisions of paragraph (d) of § 114.12, the applicant does not have available sufficient funds to provide minimum school facilities required for the free public education of 95 percent or more of the total number of children estimated to be in membership in the applicant's schools as of the end of the second year following the end of the membership period for which the application is filed.

(c) The requirement in section 14(b)(1) of the Act will be deemed to have been met when one of the following conditions exist:

(1) The total number of children who reside on Indian lands (for whom the applicant is providing, or upon completion of the school facilities for which provision is made, will provide free public education, and whose membership in the schools of such applicant has not formed and will not form the basis for payments under other provisions of the Act) is at least 15 and represents at least 10 percent of the total number of children for whom the applicant is providing free public education; provided however, that the percentage requirement may be waived subject to the provisions in § 114.34 and § 114.35.

(2) The Indian lands in the school district of the applicant represents at least 10 percent of the total land area of the school district; or

(3) The applicant district is providing, or upon completion of the school facilities for which provision is made, will provide, free public education to 100 or more children who reside on Indian lands located outside the school district.

(20 U.S.C. 644)

§§ 114.17–114.30 [Reserved]

Subpart D—Criteria for Waivers Under the Act

§ 114.31 Criteria for waiver under section 5(e) of minimum number requirement of 20 in section 5(c).

The Commissioner's authority in subsection 5(e) of the Act to waive or reduce the minimum increase number of 20 in federally connected membership required in subsection 5(c) will not be exercised unless:

(a) The applicant meets all other conditions of eligibility under section 5 or, on the basis of the authorized waiver or reduction of the minimum number requirement, would meet such other conditions;

(b) The applicant makes request for waiver of the minimum number requirement, and meets all of the following conditions:

(1) The estimated increase in federally connected membership in the increase period is at least 25 percent of the base year total average daily membership, and

(2) The school district is located in a remote or isolated area, or the Federal impact is in an attendance area affecting one or more attendance centers located in an isolated or remote part of the school district, and

(3) It would not be practicable to transport students to other existing school facilities of the applicant school district or of any adjacent school district because of distance, topography, traffic, or climatic conditions, or other equally cogent reasons, and

(4) The school district has need for additional classroom facilities or related school facilities in order to provide minimum school facilities for the estimated number of children in the remote or isolated area who will be in the membership of its schools at the close of the increase period covered by the application.

(20 U.S.C. 635)

§ 114.32 Criteria for waiver under section 5(e) of percentage requirements for federally connected and nonfederally connected membership in section 5(c).

(a) The Commissioner's authority in section 5(e) of the Act to waive or reduce the percentage requirement or requirements in section 5(c), to waive the requirement contained in the first sentence of subsection 5(d) thereof, or to reduce the percentage specified in clause (2) of such sentence will not be exercised unless the conditions set forth in subparagraphs (1) through (5), inclusive, of this paragraph, or in subparagraph (6) of this paragraph, are met:

(1) The applicant meets all conditions of eligibility under the Act other than section 14 thereof or, on the basis of the authorized waiver or reduction of one or more of the requirements, would meet such conditions.

(2) The applicant specifically states the extent to which it desires the Commissioner to exercise his authority to waive or reduce one or more of such requirements and makes appropriate requests therefor, agreeing that if such a request is granted in whole or in part in computing maximum payment under the Act, only membership of children within the federally impacted attendance area shall be considered.

(3) The applicant has two or more attendance centers, and its jurisdictional area is countywide or is sufficiently

extensive as to be reasonably analogous to a countywide school system.

(4) There has been an unusually large Federal impact in the increase period for which the application is made equal to at least 10 percent of the average daily membership in the base year in an attendance area affecting one or more attendance centers located in an isolated or remote part of the school district.

(5) It would not be practicable to transport students in the federally impacted attendance area to other existing school facilities of the applicant because of distance, topography, traffic or climatic conditions or other equally cogent reasons.

(6) The Commissioner determines that other exceptional circumstances exist which in his judgment require such waiver or reduction to avoid inequity and to avoid defeating the purposes of the Act.

(b) If the Commissioner, on the basis of the minimum criteria above set forth, determines, under subsection 5(e) of the Act, to exercise his authority to waive or reduce one or more of the specified requirements:

(1) He will determine which requirement or requirements he will waive, or reduce, and, if the latter, the extent of such a reduction;

(2) He will determine the geographical area of the applicant which shall be considered as constituting the "federally impacted attendance area"; and

(3) The application otherwise will be processed, taking into consideration only the established "federally impacted attendance area," but in no case shall payments hereunder exceed the amounts computable on the basis of the district as a whole taking into consideration the waivers or reductions approved by the Commissioner.

(20 U.S.C. 635)

§ 114.33 Criteria for waiver under section 5(e) of the Act for children residing on Federal property.

(a) The Commissioner's authority under section 5(e) of the Act to waive or reduce the percentage increase requirement in section 5(c) of the Act with respect to children residing on Federal property, or to waive or reduce the percentage increase requirement in section 5(d) of the Act with respect to nonfederally connected children will be exercised only if the conditions set forth in subparagraphs (1) through (6), inclusive, of this paragraph are met:

(1) The applicant otherwise meets all the conditions for eligibility under the Act, other than section 14 thereof.

(2) The applicant specifically states the waiver it desires be made or the extent to which it desires a reduction in one or more of such requirements, and makes an appropriate request therefor in which he agrees that, if such a request is granted in whole or in part, only the Federal property upon which the children reside shall be considered as a federally impacted attendance area in computing maximum payment under the waiver or reduction in requirement and that only children residing on the Federal property constituting the federally impacted attendance area will be considered in determining the increase in membership of federally connected children.

(3) There has been an increase in membership of the children residing on the Federal property constituting the federally impacted attendance area in the increase period for which the application is made of at least 50 in number and equal to at least 8 percent of the average daily membership of such children in the base year or there are at least 50 more children residing on said Federal property than were estimated to be in the membership of the applicant's schools at the end of the increase period under the last previous eligible application for which payment has been made or may be made.

(4) The applicant has need for additional classrooms or related school facilities on the basis of the district as a whole, or the school facilities of such applicant are not reasonably accessible to the children residing on the Federal property constituting the federally impacted attendance area because of their location or the infeasibility of transporting the children residing on said Federal property to such facilities.

(5) The estimated number of children who reside on the Federal property constituting the federally impacted attendance area and who will be in the district's schools at the close of the increase period covered by the application under consideration cannot be housed adequately in minimum school facilities within the school district unless additional school facilities are provided in the school district.

(6) The school facilities to be constructed with the funds made available to the applicant upon approval of the waiver will be located within the Federal property or located reasonably close thereto so that they will serve the children residing thereon.

(b) If the Commissioner, on the basis of the minimum criteria in paragraph (a) of this section, determines under section 5(e) of the Act to waive or reduce the percentage increase requirement in section 5(c) of the Act with respect to children residing on Federal property, and/or the percentage increase requirement with respect to nonfederally connected children in section 5(d) of the Act:

(1) He shall determine which requirements he will waive or reduce and the extent of any such waiver or reduction; and

(2) The application will be processed under the Act and the regulations in this part, taking into consideration only the established federally impacted attendance area, but in no case shall payments hereunder exceed the amount computable on the basis of the district as a whole, taking into consideration the waivers or reductions approved by the Commissioner.

(20 U.S.C. 635)

§ 114.34 Criteria for waiver of percentage requirement in section 14(a).

(a) The Commissioner's authority in section 14(a) of the Act to waive the substantial percentage requirement in section 14(a)(1) will not be exercised unless the conditions set forth in subparagraphs (1) through (6), inclusive, of this paragraph, are met:

(1) The applicant meets all conditions of eligibility under section 14(a) or, on the basis of the authorized waiver of the substantial percentage requirement, would meet such conditions;

(2) The applicant makes a request to waive such percentage requirement;

(3) The applicant's jurisdictional area is countywide or is sufficiently extensive as to be analogous to a countywide school system;

(4) There has been a concentration of children residing on Indian lands located in a remote or isolated area; and it would not be practicable to transport such children from the remote or isolated area to other existing school facilities of the applicant because of distance, topography, traffic, or climatic conditions, or other equally cogent reasons;

(5) The number of children living on Indian lands located in the remote or isolated area and estimated to be in membership in the applicant's schools as of the close of the membership period for which the application is filed is at least 15 and at least 20 percent of the total number of children in membership in the district as a whole and for whom the applicant is providing free public education; and

(6) The area of all Federal lands in the school district comprises at least 80 percent of the total area of the school district.

(b) If the Commissioner, on the basis of the minimum criteria set forth in paragraph (a) of this section, determines to exercise his authority to waive the specified percentage requirement, the application will be processed under the Act and the regulations in this part, taking into consideration only the established remote or isolated attendance area; but in no case shall payments hereunder exceed the cost of construction of minimum school facilities in the school district of the applicant for the number of all children in the approved waiver area which the Commissioner determines will be in membership in the schools of the applicant as of the close of the second year following the close of the membership period for which the application is filed, and who would otherwise be without such facilities, less the amount of financial resources which the Commissioner determines to be practicably available to the applicant from local, State, or other Federal sources.

(20 U.S.C. 644)

§ 114.35 Criteria for waiver of substantial percentage requirement in section 14(b).

(a) The Commissioner's authority in section 14(b) of the Act to waive the substantial percentage requirement in section 14(b)(1) will not be exercised unless

the conditions set forth in subparagraphs (1) through (6), inclusive, of this paragraph, are met:

(1) The applicant meets all conditions of eligibility under section 14(b) or, on the basis of the authorized waiver of the substantial percentage requirement, would meet such conditions;

(2) The applicant makes a request to waive such substantial percentage requirement;

(3) The applicant's jurisdictional area area is countywide or is sufficiently extensive as to be analogous to a countywide school system;

(4) There has been a concentration of children residing on Indian lands located in a remote or isolated area; and it would not be practicable to transport such children from the remote or isolated area to other existing school facilities of the applicant because of distance, topography, traffic, or climatic conditions, or other equally cogent reasons;

(5) The number of children living on Indian lands located in the remote or isolated area and estimated to be in membership in the applicant's schools as of the close of the membership period for which the application is filed is at least 15 and at least 5 percent of the total number of children in membership in the district as a whole and for whom the applicant is providing free public education; and

(6) The area of all Federal lands in the school district comprises at least 20 percent of the total area of the school district.

(b) If the Commissioner, on the basis of the minimum criteria set forth in paragraph (a) of this section, determines to exercise his authority to waive the specified percentage requirement, the application will be processed under the Act and the regulations in this part, taking into consideration only the established remote or isolated attendance area; but in no case shall payments hereunder exceed the cost of construction of minimum school facilities for the number of children which the Commissioner determines will reside on Indian lands in the approved remote or isolated area and who will be in membership in the schools of such applicant as of the close of the second year following the close of the membership period for which the application is filed, and who would otherwise be without such facilities, and which cost has not been, and is not to be, recovered by the applicant from other sources, including payments by the United States under any other provisions of the Act or any other law.

(20 U.S.C. 644)

§§ 114.36–114.40 [Reserved]

Subpart E—Certification of Payments

§ 114.41 Certification of payments.

Payments to an applicant will be made only on the basis of a complete application satisfying conditions for payment under the Act and this part, and will be restricted in amount to the cost of providing minimum school facilities for unhoused children; however, with respect to payments under the Act (except section 14 thereof):

(a) The Federal share of the cost of a project which will be certified for payment shall, within the maximum otherwise payable under the Act (except as provided in section 8 thereof), be equal to the cost but shall in no case exceed the cost of constructing minimum school facilities in the school district of the applicant and shall in no case exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will be in the membership of the schools of such applicant at the close of the second year following the increase period under consideration and who will otherwise be unhoused; and

(b) Nothing in this part shall be deemed to bar an applicant, with the approval of the State educational agency, from using for an approved project, in addition to the Federal grant, money otherwise obtained to provide a higher type or larger or better implemented school facility. The applicant will be required to show in such cases that the added cost is being thus independently met.

(20 U.S.C. 634)

§ 114.42 Certification of payments, section 14.

Payments to an applicant under section 14 will be made only on the basis of a complete application satisfying conditions for payment under the Act and the regulations in this part, and will be restricted in amount to the cost of providing minimum school facilities for unhoused children; however:

(a) With respect to payments under section 14(a) of the Act, except applications with respect to which the Commissioner has exercised his authority to waive the substantial percentage requirement in section 14(a)(1), the Federal share of the cost of a project which will be certified for payment shall be equal to but shall not exceed the portion of the cost of constructing minimum school facilities in the school district of the applicant for the estimated number of children who will be in membership in the schools of such applicant at the close of the second year following the close of the membership period under consideration and who will otherwise be without such facilities, minus the amount which the Commissioner determines to be practicably available to the applicant from local (including unused bonding authority), State and other Federal sources, including payments by the United States under any other provisions of the Act or any other law. Such payments may be made upon such terms and in such amounts, subject to the provisions of section 14(a) and the regulations in this part, as the Commissioner may consider to be in the public interest.

(b) With respect to payments under section 14(b) of the Act, except applications with respect to which the Commissioner has exercised his authority to waive the substantial percentage requirement in section 14(b)(1), the Federal share of the cost of a project which will be certified for payment shall be equal to but shall not exceed the portion of the cost of constructing minimum school facilities in the school district of the applicant which the Commissioner determines is attributable to children who reside on Indian lands and who will be in membership in the schools of such applicant at the close of the second year following the close of the membership period under consideration and who will otherwise be without such facilities, and which cost has not been, and is not to be, recovered by the applicant from other sources, including payments by the United States under any other provisions of the Act or any other law.

(20 U.S.C. 644)

§§ 114.43–114.50 [Reserved]

Subpart F—General Provisions

§ 114.51 Works of art.

The cost of works of art when provided in an approved construction project financed entirely, or in part, with Federal funds under the Act shall not exceed 1 percent of the Federal share of the total cost of the project, exclusive of the cost of movable equipment: *Provided, however*, That nothing contained in this part shall be deemed to bar an applicant, with the approval of the State educational agency, from including works of art in excess of 1 percent of such total cost of a project with the use of non-Federal money.

(20 U.S.C. 645)

§ 114.52 School facilities accessible to, and usable by, the handicapped.

School facilities constructed under the Act, shall be to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons. Plans for construction of minimum school facilities will be evaluated in light of "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," approved by the American Standards Association, Inc., and by other standards which the Secretary may prescribe or approve, affecting ease and safety of access, egress, and use of school facilities by handicapped persons, except that the design, construction or alteration of school facilities after the effective date of standards in that regard prescribed by the Administrator of General Services relating to access to, and use of, such facilities by handicapped persons shall comply with those standards, unless modified or waived by him.

(20 U.S.C. 645; P.L. 90-480)

§ 114.53 Excellence of architecture and design of minimum school facilities.

Local educational agencies shall give due consideration to excellence of architecture and design when constructing minimum school facilities under the Act.

The applicant shall furnish an appropriate assurance to this effect and any other evidence that such consideration has been given as may reasonably be required by the Commissioner.

(20 U.S.C. 645)

§ 114.54 Flood plains.

In the planning of the construction of school facilities under the Act, each local educational agency shall, in accordance with the provisions of Executive Order No. 11296 of August 10, 1966 (31 F.R. 10663) and such rules and regulations as may be issued by the Department of Health, Education, and Welfare, to carry out those provisions, evaluate flood hazards in connection with such school facilities, and, as far as practicable, avoid the uneconomic, hazardous, or unnecessary use of flood plains in connection with such construction.

(E.O. 11296)

§ 114.55 Preceding provisions not exhaustive of jurisdiction of the Commissioner.

No provisions of this part now or hereafter promulgated shall be deemed exhaustive of the jurisdiction of the Commissioner under the Act. The provisions of this part may be modified or further regulations may be issued hereafter as circumstances may warrant.

(20 U.S.C. 642)

§§ 114.56–114.60 [Reserved]

Subpart G—Retention of Records

§ 114.61 Retention of records.

Local educational agencies receiving Federal payments under the Act are required to keep intact all records supporting claims for such Federal payments until 5 years after the date of final payment under the application involved, or until the local educational agency is notified that such records are not needed for administrative review, whichever occurs earlier. The records involved in any claims or expenditures which have been questioned should be further maintained until necessary adjustments have been made and the adjustments have been reviewed and cleared by the Federal agencies making such reviews. The Commissioner does not require that records be maintained beyond this period unless, under special circumstances, the grantee agency is specifically advised that certain record materials should be retained until specific questions are settled.

(20 U.S.C. 642)

Dated: December 20, 1968.

PETER P. MUIRHEAD,
Acting U.S. Commissioner of Education.

Approved: January 6, 1969.

WILBUR J. COHEN,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 69-633; Filed, Jan. 16, 1969; 8:48 a.m.]

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 237—FISCAL ADMINISTRATION OF FINANCIAL ASSISTANCE PROGRAMS

Recipient Count, Federal Financial Participation

Interim Policy Statement No. 7 setting forth the regulations with respect to the recipient count for the programs administered under Titles I, IV–Part A, X, XIV, and XVI of the Social Security Act was published in the FEDERAL REGISTER of July 17, 1968 (33 F.R. 10234). Changes in the regulations were made to conform to 45 CFR 203.1(a) and, as amended, such regulations are hereby codified by adding a new § 237.50 in Part 237 of Chapter II of the Code of Federal Regulations as set forth below.

§ 237.50 Recipient count, Federal financial participation.

Pursuant to the formulas in sections 3, 403, 1003, 1118, 1121, 1403, and 1603 of the Social Security Act, it is necessary to identify expenditures that may be included in claims for Federal financial participation. Except as stated in paragraphs (a), (b), (c), and (d) of this section, the quarterly statement of expenditures and recoveries which is required for OAA, AFDC, AB, APTD, and AABD must include, as a part of the basis for computing the amount of Federal participation in such expenditures, the number of eligible recipients each month. However, where the State is making claims under section 1118 of the Act or under optional provisions for Federal sharing specified in such paragraphs no recipient count is involved. Vendor payments for medical care may not be considered if the State has a plan approved under title XIX of the Act. The procedures for determining recipient count are set forth in such paragraphs.

(a) Adult assistance categories. For each adult assistance category under title I, X, XIV, or XVI, of the Act, the recipient count for any month may include:

(1) Eligible recipients who receive money payments or in whose behalf protective payments are made for that month, plus

(2) Other eligible recipients in whose behalf vendor payments for medical care are made during that month, plus

(3) Other eligible recipients in whose behalf payments are made for institutional services in intermediate care facilities for that month. However, if the State elects under section 1121(c) of the Social Security Act to receive matching on the basis of the Federal medical assistance percentage for these payments, then they cannot be included for the purpose of the recipient count.

(b) AFDC category. For the AFDC category under title IV, Part A, of the Act

(1) The recipient count for any month may include:

(i) Eligible recipients in families which receive a money payment (including payments for work performed under the work incentive program for that month), plus

(ii) Other eligible recipients in families in whose behalf vendor payments for medical care are made during that month, plus

(iii) Eligible children in foster care not otherwise counted in whose behalf a foster care payment or vendor payment for medical care is made in such month, plus

(iv) Eligible recipients in families not otherwise counted in whose behalf protective or nonmedical vendor assistance payments are made for such month, not to exceed 10 percent of the total recipients counted under subdivisions (i), (ii), and (iii) of this subparagraph. The 10 percent limitation does not apply with respect to individuals for whom protective or nonmedical vendor payments are made pursuant to section 402(a)(19)(F) of the Act because there has been a refusal without good cause to accept employment, work or training.

(2) The recipient count may include all eligible children, plus the eligible relative with whom the children are living (as specified in section 406(a)(1) of the Act).

(3) (i) When at least one of the children in a family is eligible due to the incapacity of his parent in the home, the recipient count may include all eligible children, the parent, and the parent's spouse with whom the children are living, if the needs of such parent and spouse were included in computing the assistance payment.

(ii) As used in subdivision (i) of this subparagraph, the term "parent" means the natural or adoptive parent, or the stepparent who was ceremonially married to the child's natural or adoptive parent and is legally obligated to support the child under State law of general applicability which requires stepparents to support stepchildren to the same extent that natural or adoptive parents are required to support their children; and the term "spouse" means an individual who is the husband or wife of the child's own parent, as defined above, by reason of a ceremonial or other legal marriage.

(4) (i) For periods beginning on or after January 1, 1968, when at least one of the children in a family is eligible due to the unemployment of his father in the home, the recipient count may include all eligible children, the father, and his wife with whom the children are living, if the needs of such father and wife were included in computing the assistance payment.

(ii) As used in subdivision (i) of this subparagraph, the term "father" means the natural or adoptive father, or the stepfather who was ceremonially married to the child's natural or adoptive mother and is legally obligated to support the child under State law of general applicability which requires stepparents to support stepchildren to the same extent that natural or adoptive parents are required to support their children; and the term "wife" means an individual who is the wife of the child's own father, as

defined above, by reason of a ceremonial or other legal marriage.

(5) The recipient count for a month in which only a vendor payment is made for medical services furnished to any eligible child in the family, to any eligible relative with whom the child is living, or to any of the "essential persons," may include all eligible recipients in the family in the month that the medical service was received.

(6) Where there are two or more dependent children living in a place of residence with two other persons who are not married to each other and each of such other persons is a relative who has responsibility for the care and control of one or more of the dependent children, there may be two separate AFDC families for purposes of aid and recipient count, if neither of such persons is the parent of all the dependent children.

(c) Recipient count involving two categories. Where a vendor payment is made for medical services rendered to an individual in a month in which he was eligible only under one Federally-aided program, the payment may be included as assistance and the recipient may be counted under such program in the month of payment, even though at the time of such vendor payment the individual may be receiving assistance and included in the recipient count under another Federally-aided program.

(d) Essential person: An "essential person" or other ineligible person who is living with the eligible person may not be counted as a recipient.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date. The regulations in this section shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 6, 1969.

JOSEPH H. MEYERS,
Acting Administrator, Social and Rehabilitation Service.

Approved: January 10, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-644; Filed, Jan. 16, 1969; 8:49 a.m.]

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Subpart A—General

PAYMENTS FOR MEDICAL SERVCES AND CARE BY THIRD PARTY

Interim Policy Statement No. 2 setting forth regulations with respect to payments for medical services and care by a third party was published in the FEDERAL REGISTER of July 17, 1968 (33 F.R. 10228). No objections having been received from any person, such regulations are hereby codified as a new section 250.31 of Part 250, Subpart A, Chapter II of Title 45 of the Code of Federal Regulations as set forth below.

§ 250.31 Payments for medical services and care by a third party.

(a) *Requirements for State Plans.* A State plan for medical assistance under title XIX, Social Security Act, must provide that:

(1) The State or local agency will take reasonable measures to ascertain any legal liability of third parties arising after March 31, 1968, for the medical care and services included under the plan, the need for which arises out of injury, disease, or disability of applicants for or recipients of medical assistance.

(2) The State or local agency, in determining whether medical assistance is payable, will treat any third party liability as a current resource when such liability is found to exist and payment by the third party has been made or will be made within a reasonable time.

(3) The State or local agency will not withhold payment in behalf of an eligible individual because of the liability of a third party when such liability or the amount thereof cannot be currently established or is not currently available to pay the individual's medical expense.

(4) The State or local agency will seek reimbursement from a third party for assistance provided when the party's liability is established after assistance is granted and in any other case in which the liability of a third party existed, but was not treated as a current resource.

(b) *Federal Financial Participation.* The State may claim Federal financial participation in expenditures for medical assistance made in accordance with the provisions for consideration of income and resources in the approved State plan. Accordingly, since the liability of a third party is considered as a resource, the State may not include, in the amount claimed, payments made for medical care and services rendered recipients, arising out of injury, disease, or disability, to the extent that: (1) The third party liability constituted a current resource but was disregarded when such payments were made, (2) the agency failed to take reasonable steps to collect reimbursement from a third party whose liability was subsequently established, or (3) the agency received funds from a third party in satisfying his liability to the recipient. The Federal Government will receive its pro rata share of any funds received in instances representing reimbursements from third parties, if Federal participation has been claimed.

(c) For purposes of this section, the term "third party" includes an individual, institution, corporation, public or private agency who is or may be liable to pay all or part of the medical cost of injury, disease or disability of an applicant or recipient of medical assistance.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date. The regulations in this section shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: December 31, 1968.

MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: January 6, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-645; Filed, Jan. 16, 1969; 8:49 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 0—COMMISSION ORGANIZATION

PART 97—AMATEUR RADIO SERVICE

Radio Operator Examination Points

In the matter of amendment of § 0.485 (c) and Appendix 1, Part 97, of the Commission's rules regarding radio operator examination points.

The Commission has under consideration a modification of its commercial and amateur radio operator license examination points.

In view of the decreased demand for examinations at the Commission's annually scheduled examination point located at Butte, Mont., and the increased demand for examinations located at Missoula, Mont., it would be in the public interest to transfer the examination point from Butte, Mont., to Missoula, Mont.

The amendments herein ordered are procedural in nature and not substantive and therefore compliance with the procedures required by section 4 of the Administrative Procedure Act (5 U.S.C. Section 553) is not required.

It is ordered, Pursuant to authority of § 0.261(b) of the Commission's rules and authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and pursuant to section 3(a) of the Administrative Procedure Act, that § 0.485(c) and Appendix 1, Part 97, of the Commission's rules be amended as set forth below, effective January 21, 1969.

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

Adopted: January 10, 1969.

Released: January 14, 1969.

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

Section 0.485(c) is amended by deleting from the listing of Annual Examination Points the city of "Butte, Montana", and adding the city of "Missoula, Montana" after the listing of Great Falls, Mont.

Appendix 1, Part 97 is amended by deleting from the listing of Annual Examination Points the city of "Butte, Montana", and adding the city of "Missoula, Montana" in appropriate alphabetical order.

[F.R. Doc. 69-646; Filed, Jan. 16, 1969; 8:49 a.m.]

[Docket No. 18234; FCC 69-7]

PART 87—AVIATION SERVICES

Frequency Coordination

In the matter of amendment of Part 87 of the Commission's rules to make provision for the establishment of an industry frequency advisory committee for coordination of frequencies in the

1435–1535 Mc/s band, Docket No. 18234, RM 1198.

Report and order.

1. The Commission on July 3, 1968, adopted a notice of proposed rule making in the above-entitled matter (FCC 68-692) which made provision for the filing of comments. The notice was published in the FEDERAL REGISTER on July 12, 1968 (33 F.R. 10020). At the request of the Aerospace and Flight Test Radio Coordinating Council (AFTRCC), the time for filing comments and reply comments was extended to August 26, 1968, and September 6, 1968, respectively, by order adopted July 31, 1968.

2. The notice of proposed rule making was issued in response to a petition filed by AFTRCC which requested amendment of Part 87—Aviation Services to make provision for an industry frequency advisory committee for coordination of frequencies in the 1435–1535 Mc/s band. Subsequently, AFTRCC in comments filed in Dockets 17870 and 18004 requested, among other things, that their petition be expanded to include all flight test frequencies. The proposals in the notice were limited to the 1435–1535 Mc/s band; however, it was stated that comments detailing the need for coordination of all flight test frequencies would be considered.

3. Comments were filed by AFTRCC, whose membership consists of major companies in the aerospace manufacturing field, and Collins Radio Co. Reply comments were filed by Collins Radio Co. The comments are treated in detail in the following paragraphs. It is noted that AFTRCC has had many years of experience in the informal coordination in the use of flight test frequencies among its members.

4. AFTRCC has stated that they will submit, as a separate matter, data in support of the proposition that equipment for which licensing is requested in the 1435–1535 Mc/s must meet Inter-Range Instrumentation Group Standards 106–66. With regard to remaining matters the Council recommends revised language in the proposed rules and submits justification for expanding the rules to cover coordination of VHF as well as the band 1435–1535 Mc/s.

5. AFTRCC feels that under proposed language an advisory committee could comment without indicating the frequency that could be used with the least adverse impact upon existing operations. It proposes, therefore, that the rules be changed to specify the obligation of the frequency committee to make the best frequency recommendation and to provide that the advisory committee may make whatever comment it deems appropriate concerning interference that might result or other relevant considerations.

6. With respect to expanding the frequency coordination procedures beyond that requested in its original petition, AFTRCC feels because of the expanded eligibility for the use of flight test frequencies (Docket 17870) and the expected increased use of these frequencies that the requirement for preassignment coordination for all flight test frequencies with the exception of high frequencies is necessary. It is the position of the Council that only by proper and effective coordination can cochannel interference be kept to a minimum, and only through a Commission recognized coordinator can a single contact point in each area exist where assignment records are maintained and where all local area users can schedule operations when absolute interference free communications are essential for mission accomplishment as well as safety of life and property.

7. AFTRCC points out that these same advantages are generally true in regard to coordination of the HF flight test channels. It feels, however, that because propagation at high frequencies is such that coordination and sharing pose special problems, the Commission should take final action in this proceeding only with respect to VHF and the band 1435–1535 Mc/s and not include HF until such time as AFTRCC can study the problems and submit appropriate proposed language to the Commission to govern coordination of flight test HF. Until such HF procedures are developed AFTRCC recommends that the Commission limit the licensing of flight test HF to periods not to exceed 1 year.

8. The Council feels that for effective coordination and possible event scheduling and to maintain accurate records, the advisory committee would have to be informed of all frequencies assigned or applied for in each area. To this end, it recommends that the advisory committee, in addition to having knowledge of existing licensees, be informed when an application is submitted based on a field study, and of the content of such an application, so that comments may be submitted when appropriate. It further recommends that applications for modification be exempt from coordination where frequencies, power, emission, antenna heights and antenna locations are not changed.

9. Collins Radio Co. filed comments and reply comments to the AFTRCC comments. Essentially, Collins does not object to coordination procedures for frequencies above 25 Mc/s but feels, like AFTRCC, that coordination of HF at this time poses significantly different problems. Collins recommends that the language proposed by AFTRCC § 87.334 (c) (1)) be amended to remove from committee consideration the question of eligibility. It feels that eligibility is a matter strictly within the purview of the Commission.

10. The Commission feels that the changes proposed by AFTRCC and supported by Collins concerning a requirement for a committee to recommend a frequency and other related matters are improvements to the rules as proposed in the notice that should assure, to the extent possible, maximum frequency coordination effectiveness. Appropriate changes have been made in the rules to reflect these changes proposed by AFTRCC. Concerning eligibility, the Commission agrees with Collins that this is a matter for the Commission and not a frequency advisory committee.

11. The VHF flight test frequencies are authorized for use on a shared basis by an appreciable number of licensees. With the continued growth of aviation and the expanded flight test eligibility, prudence requires that some provision be made to lessen the impact of the ever growing number of flight test licensees and missions. The inclusion of flight test VHF in the coordination procedures as proposed by AFTRCC and supported by Collins would appear to be a suitable method. Accordingly, the rules, as set forth in the appendix, have been modified to add the requirement for coordination of the flight test VHF band.

12. Both AFTRCC and Collins have indicated that they do not favor including flight test HF in the coordination procedures at this time. The reasons advanced by both commentators and set forth above appear valid; therefore, no requirement for coordination of flight test HF is added to the rules at this time. Limiting HF flight test licenses to 1 year as proposed by AFTRCC would cause an added burden to both the Commission and licensees. It is recognized, however, that with the limited number of high frequencies available usage could soon load the frequencies so that any coordination procedures established at a later date could be ineffectual especially if grants were to be for 5 years. Accordingly, future grants for flight test HF will be limited to 1 year periods until further notice.

13. In view of the foregoing: *It is ordered*, Pursuant to the authority contained in sections 4(i) and 303 (f) and (r) of the Communications Act of 1934, as amended, that effective July 1, 1969, Part 87 of the Commission's Rules is amended as set forth below. *It is further ordered*, That this proceeding is terminated.

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

Adopted: January 8, 1969.

Released: January 14, 1969.

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

1. A new § 87.334 is added to read as follows:

§ 87.334 Frequency coordination.

(a) Except as provided in paragraphs (b) and (c) of this section each application for a new station license or renewal or modification of an existing license concerning frequencies in § 87.331 shall be accompanied by:

(1) A report, based on a field study, indicating the degree of probable interference to existing stations operating in the same area. The applicant shall consider all non-Government stations operating on the frequency or frequencies requested or assigned within 200 miles of the proposed area of operation.

(2) A written statement that all existing licensees within the frequency and

mileage limits contained in subparagraph (1) of paragraph (a) of this section and the frequency advisory committee as defined in subparagraph (2) of paragraph (c) of this section, have been notified of the applicant's intention to file an application shall be included with the report. The notice of intention to file shall provide the licensees concerned and the advisory committee with the following information: the frequency and emission; transmitter location and power; and, antenna height proposed by the applicant.

(b) The following applications need not be accompanied by evidence of frequency coordination:

(1) Any application for modification where the reason for modification does not involve any change in frequency(ies), power, emission, antenna height, antenna location or area of operation.

(2) Any application involving a frequency below 18 Mc/s.

(3) Any application for 121.5 Mc/s.

(c) (1) In lieu of the requirements specified in paragraph (a) of this section, a statement from a frequency advisory committee may be submitted. The committee shall comment on the frequency or frequencies requested or the proposed changes in the authorized station and give the opinion of the committee regarding the probable interference of the proposal to existing stations. The committee shall consider, as a minimum, all stations operating on the frequency or frequencies requested or assigned within 200 miles of the proposed area of operation. The frequency advisory committee statement shall also recommend a frequency or frequencies, which in the opinion of the committee, will result in the least amount of interference to proposed and existing stations. In addition, committee recommendations may appropriately include comments on other technical factors and may contain recommended conditions or restrictions which it believes should appear on authorization to lessen the possibility of interference.

(2) A frequency advisory committee must be so organized that it is representative of all persons who are eligible for non-Government radio flight test facilities. A statement of organization, service area and composition of the committee must be submitted to the Commission for approval. The functions of any advisory committee shall be purely advisory in character to the applicant and the Commission, and its recommendations cannot be considered as binding upon either the applicant or the Commission.

[F.R. Doc. 69-647; Filed, Jan. 16, 1969; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 194]

LIQUOR DEALERS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol, Tobacco and Firearms Division, Internal Revenue Service, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Alcohol, Tobacco and Firearms Division, within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to: (1) Prescribe the use of serially numbered commercial invoices as records of receipt and disposition; (2) provide that assistant regional commissioners may relieve wholesale liquor dealers of the requirement for recording case serial numbers on records of receipt and disposition, until otherwise notified; (3) prescribe that wholesale liquor dealers' reports on Form 338 shall be filed semiannually instead of monthly; (4) permit assistant regional commissioners to authorize the preparation of recapitulation records at intervals less frequent than daily; and (5) make certain editorial and clarifying changes, the regulations in 26 CFR Part 194 are amended as follows:

PARAGRAPH 1. Section 194.221 is amended by deleting specific instructions for preparing records and reports as such instructions are contained in, or have been transferred to, other sections. As amended, § 194.221 reads as follows:

§ 194.221 General requirements as to distilled spirits.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall, daily, prepare records of the physical receipt and disposition, as prescribed in §§ 194.225 and 194.226, respectively, of distilled spirits by him, and shall, daily, prepare a recapitulation record, as prescribed in § 194.230, showing the total wine gallons if in bottles, or proof gallons if in packages, of distilled spirits received and disposed of during the day.

(72 Stat. 1342, 1395; 26 U.S.C. 5114, 5555)

PAR. 2. Section 194.225 is amended by prescribing consignors' invoices (or the consignees' memorandum receiving records) and credit memorandums as the record of receipt. As amended, § 194.225 reads as follows:

§ 194.225 Records of receipt.

(a) *Information required.* Every wholesale dealer in liquors shall maintain a daily record of the physical receipt of each individual lot or shipment of distilled spirits, which record shall show: (1) name and address of consignor, (2) date of receipt, (3) brand name, (4) name of producer or bottler, (5) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying "kind" with the brand name, (6) quantity actually received (showing number of packages, if any, and number of cases by size of bottle, and explaining any difference from the quantity shown on the commercial papers covering the shipment), and (7) serial numbers of packages and cases. Additional information may also be shown.

(b) *Form of record.* The record prescribed by paragraph (a) of this section shall consist of consignors' invoices (or, where such invoices are not available on the day the shipment is received, memorandum receiving records prepared on the day of receipt of the distilled spirits), and credit memorandums covering distilled spirits returned to the dealer, which contain all required information. Each such invoice (or memorandum receiving record) and credit memorandum shall be numbered by the consignee dealer in the sequence of the physical receipt of the spirits covered thereby. The consignee dealer may start a new series of such numbers annually, or on approval of the assistant regional commissioner, more frequently.

(72 Stat. 1342; 26 U.S.C. 5114)

PAR. 3. Section 194.226 is amended by prescribing the wholesale dealer's invoices (or memorandum shipping records) as the records of disposition. As amended, § 194.226 reads as follows:

§ 194.226 Records of disposition.

(a) *Information required.* Every wholesale dealer in liquors shall prepare a daily record of the physical disposition of each individual lot of distilled spirits, which record shall show: (1) name and address of consignee, (2) date of disposition, (3) brand name, (4) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying "kind" with the brand name, (5) number of packages, if any, and number of cases by size of bottle, and (6) serial numbers of the cases or packages unless the serial numbers are available on supporting documents attached to the record of disposition. Additional information may also be shown.

(b) *Form of record.* The record prescribed by paragraph (a) of this section shall consist of the wholesale dealer's invoices (or, where such invoices are not available at the time the spirits are removed, memorandum shipping records prepared at the time of removal of the distilled spirits) which contain all required information. Each such invoice (or memorandum shipping record) shall be preprinted with the name and address of the wholesale dealer in liquors and shall be serially numbered in consecutive order. The wholesale dealer may start a new series of such numbers annually, or, on approval of the assistant regional commissioner, more frequently.

(72 Stat. 1342; 26 U.S.C. 5114)

PAR. 3a. A new section, § 194.226a, is added immediately following § 194.226, to provide that the assistant regional commissioner may authorize a wholesale liquor dealer to omit case serial numbers from records of receipt and disposition. New § 194.226a reads as follows:

§ 194.226a Serial numbers of cases.

Upon application, the assistant regional commissioner may authorize a wholesale liquor dealer to omit case serial numbers from the records of receipt prescribed in paragraph (a) of § 194.225 and from the records of disposition prescribed in paragraph (a) of § 194.226. The authorization granted under this section may be withdrawn if, in the opinion of the assistant regional commissioner, recording of serial numbers of cases in such records is necessary to law enforcement or to the protection of the revenue.

PAR. 4. Section 194.227 is amended with regard to the manner in which records of receipt and disposition will be canceled or corrected. As amended, § 194.227 reads as follows:

§ 194.227 Canceled or corrected records.

Entries on the records of receipt and disposition prescribed by §§ 194.225 and 194.226 shall not be erased or obliterated. Correction or deletion of any entry shall be accomplished by drawing a line through such entry, and making appropriate correction or explanation. If a wholesale dealer in liquors voids an invoice for any reason, all copies thereof shall be marked "Canceled" and be filed as prescribed in § 194.240. If a new invoice is prepared, the serial number thereof shall be noted on all copies of the canceled invoice.

(72 Stat. 1342; 26 U.S.C. 5114)

PAR. 5. Section 194.228 is amended to provide that a wholesale dealer may continue to use his previously approved records of receipt and disposition, and a related change is made in the section heading. As amended, § 194.228 reads as follows:

§ 194.228 Previously prescribed or approved records of receipt and disposition.

A wholesale dealer in liquors may continue to use records of receipt and disposition in a format previously prescribed, or approved for him, provided he gives written notice of such intent to the assistant regional commissioner. Such records shall show the information required by paragraph (a) of § 194.225 or paragraph (a) of § 194.226, as applicable. Such records shall be preprinted with the name and address of the wholesale dealer. Each sheet or page shall bear a preprinted serial number, or page serial numbers may be affixed in unbroken sequence during the preparation or processing of the records. A serial number shall not be duplicated with a period of 6 months.

(72 Stat. 1342; 26 U.S.C. 5114)

PAR. 6. Section 194.229 is amended to provide that the Director, Alcohol and Tobacco Tax Division, may also authorize variations in type of record, and to recognize the use of data processing equipment. As amended, § 194.229 reads as follows:

§ 194.229 Variations in format, or preparation, of records.

(a) *Authorization.* The Director may approve variations in the type and format of records of receipt and disposition, or in the methods of preparing such records, where it is shown that variations from the requirements are necessary in order to use data processing equipment, other business machines, or existing accounting systems, and will not (1) unduly hinder the effective administration of this part, (2) jeopardize the revenue, or (3) be contrary to any provision of law. A dealer who proposes to employ such a variation shall submit written application so to do, in triplicate, to the assistant regional commissioner. Such application shall describe the proposed variations and set forth the need therefor. The assistant regional commissioner will determine the need for the variations, and whether approval thereof would unduly hinder the effective administration of this part or result in jeopardy to the revenue. The assistant regional commissioner will forward two copies of the application to the Director together with a report of his findings and his recommendation. Variations in type and format of records or methods of preparation shall not be employed until approval is received from the Director.

(b) *Requirements.* Any information required by this part to be kept or filed is subject to the provisions of law and this part relating to required records and reports, regardless of the form or manner in which kept or filed.

PAR. 7. Section 194.230 is amended to provide that assistant regional commissioners, alcohol and tobacco tax, may authorize the preparation of recapitulation records at intervals less frequent than daily. As amended, § 194.230 reads as follows:

§ 194.230 Recapitulation records.

Every wholesale dealer in liquors shall, daily, prepare a recapitulation record showing the total quantities of distilled spirits received and disposed of during the day: *Provided*, That, upon application, and on his finding that preparation of the recapitulation daily is not necessary to law enforcement or protection of the revenue, the assistant regional commissioner may authorize a dealer to prepare such record less frequently until otherwise notified. The assistant regional commissioner's authorization shall specify the intervals at which the recapitulation shall be prepared and shall provide that the authorization may be withdrawn if, in the opinion of the assistant regional commissioner, preparation of a daily recapitulation by the dealer is necessary to law enforcement or to protection of the revenue.

PAR. 8. The center heading "Daily and Monthly Reports" immediately preceding § 194.231 is deleted.

PAR. 9. In order to provide for the filing of the wholesale liquor dealer's report, Form 338, semiannually instead of monthly and to delete extraneous material, § 194.232 is deleted and §§ 194.231 and 194.233 are amended to read as follows:

§ 194.231 Wholesale liquor dealer's semiannual report, Form 338.

As of the close of business on June 30 and December 31 of each year, every wholesale dealer in liquors who is required to keep the records prescribed in § 194.221 shall prepare, on Form 338, in duplicate, a report showing the total quantities of distilled spirits received and disposed of during the 6-month period ending on such day. If there were no receipts or disposals of distilled spirits during the period, Form 338 shall be prepared showing the quantity on hand the first day of the period and the quantity on hand the last day of the period and marked "No transactions during period." The original of Form 338 shall be filed with the assistant regional commissioner not later than the 10th day of the month succeeding the period for which rendered, and the copy shall be retained by the dealer.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.232 [Deleted.]

§ 194.233 Discontinuance of business.

When a wholesale dealer in liquors discontinues business as such, he shall render Form 338, covering transactions from the first day of the 6-month period (referred to in § 194.231) in which business is discontinued, through the date of such discontinuance, mark such report "Final", and file the form with the assistant regional commissioner within 10 days of the date of such discontinuance.

(72 Stat. 1342; 26 U.S.C. 5114)

PAR. 10. Section 194.234 is amended to include the waiver of filing daily or periodic reports on Forms 52A and 52B, transferred from § 194.221, and to simplify the instructions for filing such reports. As amended, § 194.234 reads as follows:

§ 194.234 Daily reports, Forms 52A and 52B.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall prepare and submit, daily, a report on Form 52A of all distilled spirits received by him, and on Form 52B of all distilled spirits disposed of by him. The reports shall be filed with the assistant regional commissioner or other officer designated by him. Each report shall bear the following declaration signed by the dealer or his authorized agent:

I declare under the penalties of perjury that this report, consisting of —— pages, has been examined by me and to the best of my knowledge and belief is a true, correct, and complete report of all the transactions which occurred during the period covered thereby, and each entry therein is correct.

If in any case the assistant regional commissioner shall so authorize, the reports, in lieu of being filed daily, may be filed for such periods and at such times as he may deem necessary in the interest of the Government, or, upon application, and a finding by the assistant regional commissioner that such reporting is not necessary to law enforcement or protection of the revenue, he may relieve a dealer from the requirement of preparing and submitting such daily or periodic reports on Forms 52A and 52B until otherwise notified.

(68A Stat. 749, 72 Stat. 1342; 26 U.S.C. 6065, 5114)

PAR. 11. Section 194.238 is amended to conform to the change in the period for which Form 338 is filed, as set forth in § 194.231, to delete extraneous material, and to make conforming changes in section references. As amended, § 194.238 reads as follows:

§ 194.238 Requirements when wholesale dealer in liquors maintains a retail department.

(a) When a wholesale dealer in liquors maintains a separate department on his premises for the retailing of distilled spirits, he shall, except as provided in paragraph (b) of this section, at the

time distilled spirits are transferred to the retail department, prepare a record, as prescribed in § 194.226, showing such disposition. Where it is necessary in the filing of an order to transfer distilled spirits from the retail department to the wholesale department, a record showing receipt in the wholesale department shall be prepared as prescribed in § 194.225, and the entire wholesale sale shall be entered on a record of disposition in the same manner as any other disposition from the wholesale department. The provisions of this subpart relating to submission of reports on Forms 52A and 52B are applicable to all transfers between wholesale and retail departments. The retail department need not be maintained in a separate room, or be partitioned off from the wholesale department, but the retail department shall in fact be separate from the wholesale department.

(b) Where retail sales of distilled spirits normally represent 90 percent or more of the volume of distilled spirits sold, the dealer may, in lieu of the records required by § 194.225 keep records, as prescribed in § 194.239 for all retail dealers in liquors, and all distilled spirits at the premises may be considered as having been received in the dealer's retail department. In addition, as prescribed by § 194.226, he shall prepare records of disposition on all distilled spirits sold at wholesale, and shall prepare recapitulation records of such spirits, as prescribed in § 194.230. Distilled spirits which have been considered as having been received in the retail department, and which are involved in a wholesale transaction, shall be considered as having been transferred to the wholesale department at the time of sale. The semiannual report on Form 338 shall be submitted in accordance with the provisions of § 194.231, even if there have been no wholesale transactions in distilled spirits. Unless relieved of the requirement, pursuant to application under § 194.234, the dealer shall submit daily or periodic reports on Forms 52A and 52B of all his wholesale liquor dealer transactions in distilled spirits. The dealer's wholesale department need not be maintained in a separate room or be partitioned off from the retail department.

(72 Stat. 1342, 1345, 1395; 26 U.S.C. 5114, 5124, 5555)

PAR. 13. Section 194.240 is amended by changing the section heading to include reference to the time of filing specified records and to delete the word "loose-leaf," and by making a clarifying restatement of the text. As amended, § 194.240 reads as follows:

§ 194.240 Time and manner of filing records of receipt and disposition.

One legible copy of each record of receipt and each record of disposition required by this subpart shall be marked or stamped as "Government File Copy," and shall be filed chronologically, and in numerical sequence within each date. Where the chronological filing of the record of disposition disarranges the numerical sequence to such an extent that the sequence of numbers cannot be readily traced, a control record shall be maintained by the wholesale dealer, which shall key the numerical sequence of the records to their respective dates. Government file copies shall be filed not later than the close of the business day next succeeding that on which the transaction occurred. Separate files shall be maintained for records of receipt and for records of disposition. Supporting documents such as delivery receipts, and bills of lading may be filed in accordance with the wholesaler's customary practice.

(72 Stat. 1342; 26 U.S.C. 5114)

PAR. 14. Section 194.283 is amended to provide that a wholesale dealer in liquors shall submit Form 338 relating to export storage transactions semiannually instead of monthly. As amended, § 194.283 reads as follows:

§ 194.283 Records.

The provisions of Subpart O regarding records and reports relating to liquors for domestic use are hereby extended to export storage transactions permitted under the provisions of this subpart: *Provided*, That an appropriately identified separate Form 338, covering export storage transactions in distilled spirits, shall be submitted for each semiannual period in which there are any such transactions.

[F.R. Doc. 69-656; Filed, Jan. 16, 1969; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 131]

LEASING AND PERMITTING

Hualapai, Swinomish, and Spokane Reservations, and Pueblos of Cochiti, Pojoaque, Tesuque, and Zuni

JANUARY 7, 1969.

Basis and Purpose. This notice is published in the exercise of rule-making authority (hereinafter referred to) delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM2. Pursuant to the authority vested in the Secretary of the Interior by sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 301; 25 U.S.C. 2 and 9), notice is hereby given that it is proposed to amend Part 131, Subchapter L, Chapter I, Title 25, Code of Federal Regulations by revising paragraph (a) of § 131.8 as set forth below.

The purpose of this change is to implement long-term leasing authorities contained in the Acts of June 20, 1968 (82 Stat. 242); October 12, 1968 (82 Stat. 1003); section 6 of the Act of September 28, 1968 (82 Stat. 884); and section (f) of the Act of June 10, 1968 (82 Stat. 174).

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule-making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Bureau of Indian Affairs, Washington, D.C. 20242, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Section 131.8, paragraph (a) is revised to include the Spokane Reservation and the Swinomish Reservation, Wash., the Hualapai Reservation, Ariz., and the Pueblos of Cochiti, Pojoaque, Tesuque, and Zuni, N. Mex., among those for which 99-year leases have been authorized. As revised, § 138.8(a) reads as follows:

§ 131.8 Duration of Leases.

* * * * *

(a) Leases for public, religious, educational, recreational, residential, or business purposes shall not exceed 25 years but may include provisions authorizing a renewal or an extension for one additional term of not to exceed 25 years, except such leases of land on the Hollywood (formerly Dania) Reservation, Fla.; the Navajo Reservation, Ariz., N. Mex., and Utah; the Palm Springs Reservation, Calif.; the Southern Ute Reservation, Colo.; the Fort Mohave Reservation, Calif., Ariz., and Nev.; the Pyramid Lake Reservation, Nev.; the Gila River Reservation, Ariz.; the San Carlos Apache Reservation, Ariz.; the Spokane Reservation, Wash.; the Hualapai Reservation, Ariz.; the Swinomish Reservation, Wash.; the Pueblos of Cochiti, Pojoaque, Tesuque, and Zuni, N. Mex.; and land on the Colorado River Reservation, Ariz., and Calif., as stated in § 131.18; which leases may be made for terms of not to exceed 99 years.

* * * * *

T. W. TAYLOR,
Acting Commissioner.

[F.R. Doc. 69-611; Filed, Jan. 16, 1969; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 907]

NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Notice of Proposed Rule Making With Respect to Expenses and Rate of Assessment for 1968–69 Fiscal Year

Consideration is being given to the following proposals submitted by the Navel Orange Administrative Committee, established under marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 33 F.R. 15471), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That the expenses that are reasonable and likely to be incurred by the Navel Orange Administrative Committee during the period from November 1, 1968, through October 31, 1969, will amount to $300,000 and (2) that there be fixed, at $0.01 per carton of oranges, the rate of assessment payable by each handler in accordance with § 907.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: January 14, 1969.

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

[F.R. Doc. 69-618; Filed, Jan. 16, 1969; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

ENFORCEMENT REGULATIONS FOR THE FAIR PACKAGING AND LABELING ACT

Proposed Exemption Regarding Chewing Gum

Notice is given that the National Association of Chewing Gum Manufacturers, 336 Madison Avenue, New York, N.Y. 10017, has submitted a petition proposing that the regulations for the enforcement of the Fair Packaging and Labeling Act (21 CFR Part 1) be amended to exempt chewing gum in packages containing less than one-half ounce from the declaration of net quantity of contents required by § 1.8b.

Grounds given in support of the proposal are that:

1. Prior to the amendment of Part 1 to add the Fair Packaging and Labeling Act requirements, packages of gum weighing less than one-half ounce were exempt from a quantity of contents declaration requirement by § 1.8(m)(1).

2. The label on an item weighing less than one-half ounce is normally extremely small. Small labels that lacked adequate space for a prominent declaration of net contents were also formerly exempt under § 1.8(m)(2) and should now be exempt.

Accordingly, pursuant to the provisions of the Fair Packaging and Labeling Act (secs. 5(b), 6(a), 80 Stat. 1298, 1299; 15 U.S.C. 1453, 1455) and the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that § 1.1c(a)(4) be revised to read as follows:

§ 1.1c Exemptions from required label statements.

* * * * *

(a) *Foods.* * * *

(4) Individually wrapped pieces of "penny candy" shall be exempt from the labeling requirements of this part when the container in which such candy is shipped is in conformance with the labeling requirements of this part. Similarly, when individually wrapped pieces of candy of less than one-half ounce net weight per individual piece are sold in bags or boxes, such individual pieces shall be exempt from the labeling requirements of this part, including the required declaration of net quantity of contents specified in this part when the declaration on the bag or box meets the requirements of this part. Individually wrapped pieces of gum of less than one-half ounce net weight per individual piece shall be exempt from the required declaration of net quantity of contents when the container in which such gum is shipped is in conformance with the labeling requirements of this part.

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

Dated: January 9, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-636; Filed, Jan. 16, 1969; 8:48 a.m.]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance

[41 CFR Part 60-20]

SEX DISCRIMINATION

Guidelines

Pursuant to Executive Order 11246 (30 F.R. 12319, Sept. 28, 1965) as amended by Executive Order 11375 (32 F.R. 14303, Oct. 17, 1967), it is proposed to amend Chapter 60 of Title 41 of the Code of Federal Regulations by adding a new Part 60-20 to read as set forth below. These are interpetations as to the requirements with respect to sex discrimination imposed upon Government contractors and subcontractors and upon Federally-assisted construction contractors and subcontractors by Executive Order 11246 as amended by Executive Order 11375.

Any person interested in this proposal may file written data, views or argument concerning it by mailing them to the Director of the Office of Federal Contract Compliance, U.S. Department of Labor, 14th and Constitution Avenue, Washington, D.C. 20210 within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

The proposed Part 20 of 41 CFR 60 reads as follows:

PART 60-20—SEX DISCRIMINATION GUIDELINES

Sec.

AUTHORITY: The provisions of this Part 60-20 issued pursuant to sec. 201, E.O. 11246 (30 F.R. 12319), and E.O. 11375 (32 F.R. 14303).

§ 60-20.1 General.

The purpose of the provisions in this part is to set forth the interpretations and guidelines of the Office of Federal Contract Compliance regarding the implementation of Executive Order 11375 for the promotion and insuring of equal opportunity for all persons employed or seeking employment with Government contractors and subcontractors or with contractors and subcontractors performing under Federally-assisted construction contracts, without regard to sex. Accordingly, these interpretations are to be read in connection with existing regulations, set forth in 41 CFR Chapter 60, Part 60-1.

§ 60-20.2 Recruitment.

(a) All the affirmative acts of expanded recruiting which have become familiar under the Equal Employment Opportunity program of the Office of Federal Contract Compliance (referred to hereafter as OFCC) have equal application here. Recruiters must include, in the itineraries of their recruiting trips, women's colleges, and the female students of coeducational colleges, technical institutes and high schools.

(b) Written advertisements should be designed to attract women by specifically inviting them to apply for those jobs where they are not typically represented. Included among the publications in which these advertisements are placed should be those read predominantly by women.

(c) Women workers should be sought for part-time work. Many women with valuable skills are excluded from the job market because of the rigidity of the conventional hours of work. Affirmative action should include a careful examination of the company's work needs so that these women may not be excluded from job opportunities. In some cases a redesign of the hours of work may be a useful means of more fully utilizing this important labor source.

(d) Employers should recruit both sexes for all jobs if it is at all possible to

do so. Advertisement in newspapers and other publications for employment should not express a sex preference either by placing the ad in a column headed "Male" or "Female" or by specifically mentioning sex in the body of the ad, unless the employer relies upon valid State law restrictions or justifiable occupational qualifications, discussed in § 60–1.76 of this subpart below.

§ 60–20.3 Job policies and practices.

(a) Personnel policies must expressly indicate that there shall be no discrimination against employees on account of sex. If the employer deals with a bargaining representative for his employees and there is a written agreement on conditions of employment, this policy must be explicitly stated in all written agreements.

(b) An employer should not deny employment to women with children or to married women unless it has similar exclusionary policies for men; such a denial would include the termination of female employees, but not males, upon the attainment of a specific age. Moreover, compliance cannot be achieved by simply instituting restrictive policies against the employees of the other sex, e.g., by reducing the wages of male employees to the level of females doing substantially identical work.

(c) The employer's policies and practices must assure equal working conditions to both sexes. Where State laws provide special minimum wages, overtime pay, or brief rest periods for women, the benefits of these statutory provisions must also be given to men. In addition, the employer may not use these laws as a basis for refusing to hire women. Affirmative action programs should provide for elimination of any working conditions which are inconsistent with this principle of equal treatment.

(d) The employer should provide substantially equal physical facilities, including accommodations such as restroom lounges for all employees, unless the employer clearly shows that construction or maintenance would be an unreasonable expense.

(e) The employer should make all jobs available to both sexes unless he is precluded from doing so by a justifiable occupational qualification (discussed in § 60–1.76(f) of this subpart below) or by a valid State law. These State laws include those which prohibit women from performing in certain types of occupations (e.g., a barmaid in Michigan), from working at jobs requiring more than a certain number of hours, and from working at jobs that require lifting or carrying more than certain weights.

(1) If there is such a State law and it contains provisions for employees' exemptions, the employer's application for exemptions must have been denied before he can justify an exception to this policy.

(2) Frequently this problem arises among companies that work a substantial amount of overtime on defense contracts. Women may be denied the opportunity to work in some positions because they would have to work 7 days a week, 8 hours a day, which would violate a State law limiting the maximum hours of work for women. Assume that the State law also says that female employees over 18 may be permitted to work in excess of the statutory limitation on hours, provided that a written request is submitted to the State Secretary of Labor, who may authorize such an exception after an investigation is made to verify that the women involved in fact desire such an exception. Since the maximum hours' statute contains a provision for an administrative exception, such an exception must be applied for and denied if the employer is to justify continuous exclusion of women from these positions.

(3) In the absence of a valid State law, no employer's policies or practices should exclude women from specific jobs, from working certain hours, or from jobs requiring ability to lift and carry weights. For example, in a terminal of a large passenger transport company 5 years ago, women employees in the baggage department were transferred out when a State official said that their job required lifting more than the 35-pound limit imposed by the State law. That State law has been repealed. If the company continues to exclude women from that department, it should be found to be out of compliance.

(4) There are serious questions as to whether at least some of the State laws are discriminatory, rather than merely protective of women. This issue is now being raised with respect to some of these laws, and subsequent OFCC Guidelines will be provided as the Federal position is developed.

(5) Job qualifications for employees of Government contractors should, in almost all cases, have no reference to sex. In the entertainment world the sex of a performer may be important to the job. However, in Government contract work there are few instances where there can be a valid reason to exclude all men or all women from any given job. If asserted, the contractor would have the burden of proving the justification for this exceptional condition.

(6) Seniority lines and lists should not be based upon sex. Where there is such a separation, affirmative action to eliminate this deficiency must be taken. Merger of seniority rosters, or other such alterations of a seniority system, can be extremely complicated. This is discussed generally in the August 8, 1968, memorandum to all Contract Compliance Officers from the Acting Director, OFCC, on discriminatory seniority systems. The content of that memorandum applies to sex discrimination just as it does to other forms of discrimination covered by Executive Order 11246 (30 F.R. 12319, Sept. 28, 1965). Seniority problems in sex discrimination are very similar to those that occur with respect to other forms of discrimination, but they will in some cases raise certain distinctive issues. Each situation must be examined specifically. For example, consider an aircraft manufacturing plant maintaining some separate seniority lines for men and women. In order to comply with the Executive Order these lines should be "merged" with other ("men's") lines on related work. Assume the women are clustered around the mid-point of the new seniority rosters. A simple merger of the lines would have the result, in a layoff, that men with more seniority would displace women from their jobs and force them into lower-paid more strenuous ones which they may be unable or very unwilling to perform. One way of avoiding this harsh result—which may be equitable in some situations—has been to separate all plant jobs into three categories: "A" jobs, being those primarily of interest to males; "B" jobs, being those primarily of interest to females; and "C" jobs, those of interest to both males and females. Job assignments for men can then be made to jobs in categories A or C, while those for women can be made in categories B or C. However, all employees have the right to try for jobs designated for the opposite sex (i.e., men for "B" jobs; women for "A" jobs), provided that they have the requisite seniority and ability to either perform or to learn to perform the job within a reasonable time. Thus, when a woman is laid off, she will normally be permitted to bump down into a "B" or "C" job, but she may ask for an "A" job if she has the necessary ability and seniority. Likewise, a man who is laid off may opt for a "B" job if he has the necessary ability and seniority for the job. By a careful selection and distribution of jobs into these categories, much of the inequity of a simple mechanical merger of lines can be avoided. As in all seniority problems, the employer must develop his own way of taking necessary affirmative action.

§ 60–20.4 Training.

(a) The reporting system used in connection with the Federal Equal Employment Opportunity program since 1962 makes it clear that women are not typically found in significant numbers in management. The 1966 Standard Form 100 reports show that, in the textile industry, women are 44.2 percent of the work force but only 4.5 percent of the officials and managers. In tobacco they are 39.9 percent of the employees, but only 3.6 percent of officials and managers. In the manufacture of transportation equipment, 10 percent of the employees are women but only 0.7 percent are women officials and managers. In making instruments and related products, many of the firms are Government contractors, 35.5 percent of all employees are women but only 2.6 percent are officials and managers. One of the increasingly important ladders to middle and top management is the management trainee program. Few, if any, women ever get into these programs in most companies. An important element of affirmative action would be a commitment to develop women managers through these programs, with the goals and timetables required by § 60–1.40(a) of subpart (C).

(b) Women are not actively recruited for training for a number of jobs, such

as those involving skilled crafts and outdoor work, despite their demonstrated abilities as artists, dental and laboratory technicians and in harvesting crops. Similarly, men are in many cases not sought for training where work involves digital dexterity and fine handwork, despite their record as jewelry makers and brain surgeons. Both sexes should be represented in all training programs, and affirmative action programs should include this goal.

§ 60–20.5 Discriminatory wages.

(a) The employer's wage schedules should not be influenced by the sex of the employees. The more obvious discrimination is where employees of different sexes are paid different wages on jobs which require essentially equal skill, effort and responsibility and are performed under similar working conditions. A more subtle form of such discrimination, and perhaps a more pervasive form, may occur even though all of the employees in one or several related job categories are of the same sex. These are usually women in a "ghetto department", and they very often are Negro women. A typical situation might be a production division of an electrical manufacturing company, with three departments: one (assembly) all female where the average wage is $2 per hour; another (wiring) all male with a $3.75 average wage; and a third (circuit boards), also all male, with a $3.70 average wage. The highest wage attainable in the assembly department is $2.50 per hour, but in the circuit board and wiring departments, new hires with no previous experience start at $2.60. Although the jobs in the various departments are not exactly alike, they are comparable, and seem to you not different enough to justify paying the males almost twice as much. This is a situation where the employer must take affirmative action to change this questionable practice.

§ 60–20.6 Other conditions of employment.

(a) There should be no difference for male and female employees in either mandatory or optional retirement age.

(b) Employers should allow a pregnant employee to take a leave of absence for a reasonable time, and be reinstated in her original job or to a position of like status and pay.

§ 60–20.7 Employer's self-analysis.

(a) A familiar method of self audit, developed in recent years in the Federal Equal Employment Opportunity program, has been for the employer to compare its employees' education, training, experience and skills. Such an analysis has often revealed substantial underutilization of some employees with minority group identification, and provided employers with a sound basis for upgrading minority group employees. It is quite clear from aggregate data that this must be the situation with respect to women also in many companies and that such a self analysis could be of similar value there too.

§ 60–20.8 Compliance review reports.

(a) Wherever a compliance review reveals that an employer may be in violation of a Federal law relating to discrimination on account of sex (particularly title VII of the 1964 Civil Rights Act and section 6(d) of the Fair Labor Standards Act), the possible violation should be specifically identified in the Compliance Review Report, and this information should be promptly forwarded by the agency to OFCC. The Compliance Officer should not discuss the possible violation of these laws with the employer. However, the Compliance Officer should deal with all compliance questions under Executive Orders 11246 and 11375, and all relevant affirmative action commitments should be specifically set forth in his report.

§ 60–20.9 Special inquiries.

(a) It is expected that, at least in the first year of implementation of Executive Order 11375 (32 F.R. 14303, Oct. 13, 1967), certain employment policies and practices and some State laws will present policy questions which should be handled quickly. Each Federal agency should arrange to communicate these special inquiries to the OFCC Compliance Officer who is assigned to work with that agency.

Signed at Washington, D.C., this 14th day of January 1969.

WARD MCCREEDY,
Acting Director.

[F.R. Doc. 69–665; Filed, Jan. 16, 1969; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 249, 375]

[Docket No. 20653, EDR–153, SPDR–14]

PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS AND MEMORANDA AND NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN UNITED STATES

Names and Addresses of Passengers

JANUARY 14, 1969.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Parts 249 and 375 which would require that operators of foreign civil aircraft obtain passenger manifests containing the names and addresses of passengers on commercial (noncommon carrier) flights originating or terminating in the United States and retain such records for 6 months. The reasons for the proposal are explained in the Explanatory Statement and the proposed amendments are set out in the proposed rules. This regulation is proposed under authority of sections 204(a) and 1108(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 798; 49 U.S.C. 1324, 1508).

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 February 17, 1969, will be considered by the Board before taking 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] MABEL MCCART,
Acting Secretary.

Explanatory statement. Part 375 governs the navigation of foreign civil aircraft in the United States otherwise than in accordance with a foreign air carrier permit issued under section 402 of the Act. Section 375.42(b)(3)(i) provides that permits may be issued for occasional planeload charter flights, usually not to exceed six within a year for any one applicant, where it appears that they are not within the scope of the applicant's normal holding out of transportation services to the general public. Charters that involve solicitation of the general public are not authorized. Section 375.43 requires that all flights conducted under such permits must be documented and the documents retained for 2 years, but such record requirements relate primarily to cargo operations.

The Board occasionally receives complaints that participants in passenger charters performed under Part 375 permits have been solicited from the general public in contravention of the authorization. The Board is unable to investigate the validity of such complaints because the operators are not specifically required to keep the addresses of passengers, who are the primary source of information on how the charter was organized. The Board tentatively finds that permit holders should be required to obtain from the charterer, and retain for 6 months, a passenger manifest showing the names and addresses of passengers on flights originating or terminating in the United States. Such manifests would be made available in the United States upon demand. It also appears that a retention period of 1 year for cargo documents

would be sufficient for the Board's investigative purposes, in lieu of the present 2-year retention period. The proposed rule would accordingly amend Part 249 to reflect this change, in addition to providing for a retention period of 6 months for passenger manifests.

Proposed rule. The Board proposes to amend Parts 375 and 249 (14 CFR Parts 375 and 249) as follows:

1. Amend § 375.43 by revising the introductory sentence of paragraph (a), and revising paragraphs (b) and (c) to read as follows:

§ 375.43 Keeping of records on commercial transport operations.

(a) *Cargo documents.* The holder of a permit for cargo operations issued under § 375.42 shall issue a manifest or shipping document with respect to each shipment which shall contain, but need not be limited to, the following information:

* * * * *

(b) *Retention of cargo documents.* The holder of a permit for cargo operations issued under § 375.42 shall keep, for a period of 1 year, true copies of all manifests, air waybills, invoices and other traffic documents covering flights originating or terminating in the United States. The holder of a permit authorizing 10 or more flights originating in the United States in a 90-day period shall maintain a place in the United States where such documents may be inspected at any proper time by authorized representatives of the Board or the Federal Aviation Administration. Records of flights terminating in the United States and flights conducted pursuant to a permit authorizing less than 10 flights in any 90-day period need not be maintained in the United States but shall be made available to the Board upon demand.

(c) *Contents and retention of documents for passenger flights.* The holder of a permit for passenger charters originating or terminating in the United States issued under § 375.42 shall require each charterer to file with it prior to flight a passenger manifest showing the names and addresses of all passengers to be transported on each flight. All passenger manifests shall be retained for a period of 6 months and be made available to the Board in the United States upon demand.

2. Amend the "Category of Records" table in § 249.11 to read as follows:

§ 249.11 Period of preservation of records by holders of foreign civil aircraft permits.

* * * * *

Category of records	*Period to be retained*
1. True copies of all cargo manifests, air waybills, invoices, and other documents covering cargo flights originating or terminating in the United States.[1]	1 year.
2. Copies of all passenger manifests, including those filed by charterer showing names and addresses of all passengers, for charter flights originating or terminating in the United States.[2]	6 months.

[1] Pursuant to § 375.43(b) of the Board's Special Regulations, the holder of a permit authorizing 10 or more cargo flights originating in the United States in a 90-day period shall maintain a place in the United States where such documents may be inspected at any proper time by authorized representatives of the Board or the Federal Aviation Administration. Records of flights terminating in the United States and flights performed pursuant to a permit authorizing less than 10 flights in any 90-day period need not be maintained in the United States but shall be made available to the Board upon demand.

[2] Pursuant to § 375.43(c) of the Special Regulations, all manifests for passenger charter flights shall be made available to the Board in the United States upon demand.

[F.R. Doc. 69-629; Filed, Jan. 16, 1969; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18389; RM-1335]

FM BROADCAST STATIONS

Table of Assignments; Porterville, Calif.; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202, Table of Assignments FM Broadcast Stations (Porterville, Calif.; Bottineau, N. Dak.; Rhinelander, Wis.; Scobey, Mont.; and Humboldt, Idaho, Docket No. 18389, RM-1335, RM-1338, RM-1339, RM-1347, RM-1351.

1. In a notice of proposed rule making, released November 29, 1968, in this proceeding (FCC 68-1147), the Commission invited comments on a number of proposals to amend the FM Table of Assignments, including the assignment of Channel 262 to Porterville, Calif. The time for filing comments was designated as January 10, 1969, and that for replies as January 20, 1969.

2. On January 9, 1969, Gateway Broadcasters, Inc. (proponent of the Porterville Class C assignment), filed a request for a 30-day extension of time in which to file comments. Gateway Broadcasters, Inc., states that within the last day, it has been advised that the Commission's proposal on which comments were to be made, suggests a short spacing. It therefore feels it is appropriate that it review its position thereon, as well as the alternate proposal which is before the Commission, prior to the filing of its comments.

3. We are of the view that the requested additional time is warranted and would serve the public interest. *Accordingly, it is ordered,* That the time for filing comments in this proceeding in the matter of RM-1335 only is extended to and including February 10, 1969, and that for replies to February 20, 1969.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended and § 0.281(d)(8) of the Commission's rules.

Adopted: January 10, 1969.

Released: January 13, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
GEORGE S. SMITH,
Chief, Broadcast Bureau.

[F.R. Doc. 69-648; Filed, Jan. 16, 1969; 8:49 a.m.]

[47 CFR Part 74]

[Docket No. 17159, FCC 69-33]

OPERATION OF LOW-POWER FM BROADCAST TRANSLATOR AND BOOSTER STATIONS

Notice of Proposed Rule Making

In the matter of amendment of Part 74 of the Commission's rules and regulations to permit the operation of low-power FM broadcast translator and booster stations, Docket No. 17159, RM-909.

FM translators and boosters proposed. 1. Having considered all the comments filed in response to our Notice of Inquiry adopted herein February 1, 1967, we propose to authorize FM translators under the appended rules, on which comments are invited.

2. We note from our experience with television boosters that operation of these units has not been promising. While we have rules for television boosters, there are no operating stations of this type at the present time, and the few experimental operations which did exist have long since been eliminated. However, we recognize that new information may now be available and also that the situation in FM may be different from that in television. Accordingly, we invite comments also on the desirability of simultaneously adopting similar rules permitting the use of on-channel FM "boosters" (repeating devices which retransmit on the same channel on which the incoming signals are received) as well as FM "translators" (which retransmit on a frequency different from the incoming one). Thus, wherever we refer to FM translators herein and in the appendix, it should be understood that we

propose the possible adoption, at the same time, of counterpart rules authorizing and similarly conditioning the use of FM boosters.

The need. 3. FM reception within the predicted service contours of FM stations is in some instances rendered unsatisfactory or precluded because of intervening mountains or hills blocking line-of-sight transmissions. Satisfactory reception in such "pockets" is also deterred by the general absence of prominent, outdoor FM receiving antennas such as are more often used to provide TV reception. Poor to nonexistent FM reception thus results within the predicted service areas of FM stations in areas with uneven terrain. Some parties referred also to the absence of FM service in locations beyond the predicted service areas of FM stations, in places where a dearth of AM service makes it all the more desirable that FM service, unavailable from regular FM stations, be provided by FM translators.

Frequency assignment (74.1202 of the proposed rules. 4. Until guided by experience with the service and interference potential of FM translators, and unless that experience should indicate otherwise, we believe that only the 20 Class A FM channels should be made available for translators rebroadcasting the signals of commercial FM stations. This should provide ample spectrum space for the initial establishment of FM translators rebroadcasting the signals of commercial FM stations. The fact that the 20 channels available for Class A commercial FM stations are not contiguous, but are distributed among the 80 commercial FM frequencies and are in most cases at least four channels (800 kHz) removed from each other will—especially in the outlying areas of greater apparent need—provide for multiple FM translator services in the same or neighboring communities and areas.

5. We propose, also, in keeping with the basic purposes of the reservation of 20 FM channels for noncommercial educational broadcasting, to require that translators rebroadcasting the services of noncommercial educational FM stations be placed on FM channels No. 201 through 220. The fact that the 20 FM channels reserved for noncommercial use are contiguous in a single band will place lower limits on the numbers of translators possible in given areas on those channels. There is no evidence, however, that the spectrum space thus available for translators rebroadcasting noncommercial FM stations is inadequate to any demand which is visible or can be anticipated for such translators.

Interference (§ 74.1203 of the proposed rules). 6. As in the case of TV translators, we propose to authorize and permit the continued operation of FM translators only where they cause no interference to the direct reception of the signals of regular broadcast stations or of stations operating in nonbroadcast radio services.

Purpose and permissible service (§ 74.-1231 of the proposed rules). 7. As with TV translators, FM translators will have the sole function of rebroadcasting the signals of FM broadcast stations or of other FM translators. An FM translator may be used incidentally to relay signals to other FM translators provided it performs the basic functions of rendering service to persons living in its vicinity.

8. Limited originations will be permitted at the translator, but those will be confined to no more than 20 seconds per hour of matter seeking or acknowledging financial suport for the translator. Such announcements may include advertising messages of contributors.

9. Only one party expressly disfavored permitting FM translators beyond predicted service contours of regular stations. Most of those commenting on the point, while emphasizing the primary need to fill in gaps within normal service areas, did not appear to favor restricting FM translators to that use. One pleading recommended the use of microwave relays, where necessary, to bring FM service to needful areas too remote from the main station to permit simple pickup and direct rebroadcast of the program on another output frequency.

10. We do not find it desirable to restrict FM translators to gap-filling within predicted service contours of regular FM stations, provided that in individual cases a need is shown for FM translator service farther out. We do not, however, find that sufficient justification has been advanced for allocating spectrum space at this time for microwave transmission of signals from remote FM stations to translators, for rebroadcast. As in the case of television translators, FM translators which serve adjacent populations would be permitted to perform, additionally, the function of relaying signals to other translators more remote from the originating FM station. We think it desirable to assess the results of this method before considering the possible needs for microwave relays of FM signals to FM translators.

Eligibility and licensing requirements (§ 74.1232 of the proposed rules). 11. We find no merit either in confining the licensing of FM translators to the licensees of regular FM broadcast stations or in prohibiting such licensees from financing or owning them. We believe, however, that it would not be desirable to permit FM station licensees to place FM translators at locations outside their own 1 mv/m contours and within the 1 mv/m contours of another FM broadcast station serving a different principal city. This would permit FM station licensees, in effect, to increase their audiences and service areas in places where they would compete unfairly with one or more regular FM stations without having the burden of providing local program originations.

12. If, owing to conditions of terrain, there are gaps in the service area of an existing FM station, they could more suitably be filled by translators rebroadcasting the signals of the local FM station. Such translators could be licensed either to a local FM station or to qualified organizations representing the inhabitants of the translator's service area.

13. Should such citizens' organizations find a need for bringing in FM signals from elsewhere to supplement FM programing broadcast by a local station, they will be permitted to do so. As with TV translators, the outside station will not be permitted to contribute toward the costs of putting into operation an FM translator carrying the signals of an FM station into areas outside the 1 mv/m contour of the station whose signals are rebroadcast and inside the 1 mv/m contour of another FM roadcast station. FM stations would be permitted, however, to assist financially or otherwise with the operation of such FM translators.

Operation (§§ 74.1234 and 74.1266 of the proposed rules). 14. We propose to permit the operation of FM translators without having an operator in constant attendance, subject, however, to the provision of an on-and-off control at a location from which the translator can be put promptly in a nonradiating condition in case of malfunction or interference.

15. We shall, at the outset, however have to require that the operation of FM translators be placed in the charge of a licensed operator. Section 318 of the Communications Act of 1934 precludes waiver by the Commission, of operator requirements for broadcast stations, with the sole exception of TV translators. The Commission will seek an amendment broadening the exception to include FM translators. Meanwhile, we shall have to require that FM translator operation be by an operator holding a restricted radiotelephone operators permit.

16. Such operators, who under the proposed rules need not possess technical qualifications, will have the minimal duty of observing the operation by listening in at least every 6 hours between 8 a.m. (or such later time as the primary station starts the day's broadcasting) and 10 p.m. The operator must be prepared to discontinue the operation of the FM translator promptly in case of malfunction or interference.

Power (§74.1235 of the proposed rules). 17. In our notice, we indicated our view, based upon TV translator experience, that a power of one watt would appear to be sufficient for FM translators (boosters). Some of the commenting parties have suggested transmitter powers as high as 20 watts for the purpose of providing wide area coverage. We believe, however, that these comments are misdirected because we do not envisage the translator as an instrument for providing wide area coverage but rather as a device for supplying service to concentrated clusters of population who are, generally, without service.

18. It should be recognized that in the television broadcast service, the aural power of a television broadcast station must be not less than 10 nor more than 20 percent of the peak visual power. Hence a one watt television translator rebroadcasting such a television signal would have an effective aural radiated power of less than 0.2 watt. To our knowledge, one watt TV translators have, in the majority of instances, provided signals of sufficient intensity. In those cases where complaint was made, the

reason was usually of noise in the picture rather than inadequate aural signal to noise ratio. We believe, in light of this past history that until further experience is gained in this field our rules should be so constructed to limit FM translators to a transmitter power output of 1 watt. We do this with the expectation that, at some installations, high gain transmitting antennas will be utilized to provide effective radiated powers of 10 to 20 watts for the purpose of providing greater coverage in given directions.

Other requirements as to operation and equipment (§§ 74.1236, 74.1237, 74.1250, 74.1251, 74.1261 through 74.1266, 74.1267 through 74.1269, and 74.1281 of the proposed rules). 19. The above-cited sections of the proposed rules contain additional, self-explanatory requirements as to operation and equipment which follow the lines of corresponding rules for TV translators.

Other rule changes. 20. Apart from the adoption of the proposed new Subpart L of Part 74, of the rules, we propose corresponding changes to existing rules, including:

Section 74.15. To provide for license renewal dates for FM translators (and FM boosters, if authorized) corresponding with those established for TV translators in the same States.

Section 13.61(h)(3). To permit the holder of a restricted radiotelephone operator permit to operate FM translators (and FM boosters, if authorized).

Translators adjacent to Canada. 21. FM translators (or boosters) will not be authorized within 10 miles of the United States-Canadian border until arrangements mutually agreeable to the Governments of Canada and the United States are concluded for interference protection and notification.

22. Pursuant to this notice, the Commission proposes:

(a) The adoption of the new rules authorizing FM translators, set out in Appendix 1 hereto.

(b) The adoption of similar rules authorizing FM on-channel boosters.

(c) The adoption of corresponding changes to existing rules, such as § 74.15 relating to license terms and § 13.61(h)(3) relating to restricted radiotelephone operator permits.

We note the fact that CATV's, like proposed FM translators, provide some aural programing (see pending notice of proposed rule making in Docket No. 18397, 33 F.R. 19028, par. 62). Parties responding to this matter may wish to comment in this regard.

23. Authority for the adoption of the proposed rules and amendments is contained in sections 4(i), 4(j), and 303(a), (b), (c), (d), (e), (f), (g), (h), (j), (l), (n), (o), (q), and (r) of the Communications Act of 1934, as amended.

24. Pursuant to applicable procedures set out in § 1.415 of the rules, interested parties may submit comments on or before February 17, 1969, and replies to such comments on or before March 3, 1969. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

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

Adopted: January 9, 1969.

Released: January 15, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

Subpart L—FM Broadcast Translator Stations

APPENDIX I—DEFINITIONS AND ALLOCATION OF FREQUENCIES

§ 74.1201 Definitions.

(a) *FM translator.* A station in the broadcasting service operated for the purpose of retransmitting the signals of an FM broadcast station or another FM translator by means of direct frequency conversion and amplification of the incoming signals without significantly altering any characteristics of the incoming signal other than its frequency and amplitude, in order to provide FM service to the general public.

(b) *Commercial FM translator.* An FM translator which rebroadcasts the signals of a commercial FM broadcast station.

(c) *Noncommercial FM translator.* An FM translator which rebroadcasts the signals of a noncommercial FM broadcast station.

(d) *Primary station.* The broadcast station radiating the signals which are retransmitted by an FM translator.

(e) *FM broadcast station.* When used in this Subpart L, the term FM broadcast station refers both to commercial and noncommercial educational FM broadcast stations, unless the context indicates otherwise.

§ 74.1202 Frequency assignment.

(a) An applicant for a new FM translator or for changes in the facilities of an authorized translator shall endeavor to select a channel on which its operation is not likely to cause interference to the reception of other stations. The application must be specific with regard to the frequency requested. Only one rebroadcast channel will be assigned to each translator.

(b) Subject to compliance with all the requirements of this subpart, FM translators may be authorized to operate on the following FM channels regardless of whether they are assigned for local use in the Table of FM Assignments (§ 73.202(b)):

(1) Commercial FM translators: Class A channels so designated in § 73.206(a)(1);

(2) Noncommercial FM translators: The channels available for noncommercial use under § 73.501.

(c) No minimum distance separation between FM translators operating on the same channel is specified. However, assignments which will obviously result in mutual interference between translators will not be made.

(d) Adjacent channel assignments will not be made to FM translators intended to serve all or part of the same area.

§74.1203 Interference.

(a) FM translators will be authorized and permitted to continue to operate only where they cause no interference to the direct reception of any previously or subsequently authorized FM or TV broadcast station or of any nonbroadcast station of any class. FM translators which would hazard such interference will not be authorized.

(b) Interference will be considered to occur whenever reception of a regularly used signal is impaired by the signals radiated by the translator regardless of the quality of such reception, the strength of the signals so used, or the channel on which the protected signal is transmitted.

(c) If an authorized FM translator is found to cause interference prohibited under paragraph (a) of this section it shall immediately suspend operation until the cause of the interference is eliminated or until the use of a different FM channel is applied for and authorized. Short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures. If a complainant refuses to permit the translator licensee to apply remedial techniques which demonstrably will eliminate the interference without impairment to the original reception, the licensee of the translator is absolved of further responsibility.

(d) In each instance where suspension of operation is required, the licensee shall submit a full report to the Commission after operation is resumed, containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference.

(e) The requirements of paragraphs (a) through (d) of this section shall apply irrespective of whether the channel occupied by the protected station was listed in the pertinent table of channel assignments when the FM translator was authorized and irrespective of whether the protected station was authorized before or after the translator was authorized.

(f) An application for a new FM translator station or for changes in the facilities of an authorized translator will not be granted where it is apparent that substantial interference will be caused to another FM translator. If interference develops between FM translators, the problem shall be resolved by mutual agreement among the licensees involved.

[1] Commissioner Cox concurring in the result.

ADMINISTRATIVE PROCEDURE

§ 74.1211 Cross Reference.

See §§ 74.11 to 74.16.

LICENSING POLICIES AND GENERAL OPERATING REQUIREMENTS

§ 74.1231 Purpose and permissible service.

(a) FM translators provide a means whereby the signals of FM broadcast stations may be retransmitted to areas in which direct reception of such FM broadcast stations is unsatisfactory due to distance or intervening terrain barriers.

(b) Except as provided in paragraphs (f) and (g) of this section, an FM translator may be used only for the purpose of retransmitting the signals of an FM broadcast station or another FM translator station which have been received directly through space, converted, and suitably amplified.

(c) The transmissions of each FM translator shall be intended for direct reception by the general public and any other use shall be incidental thereto. An FM translator shall not be operated solely for the purpose of relaying signals to one or more fixed receiving points for retransmission, distribution, or further relaying.

(d) The technical characteristics of the retransmitted signals shall not be deliberately altered so as to hinder reception on conventionl FM broadcast receivers.

(e) An FM translator shall not deliberately retransmit the signals of any station other than the station it is authorized by license to retransmit. Precautions shall be taken to avoid unintentional retransmission of such other signals.

(f) A locally generated radio frequency signal similar to that of an FM broadcast station and modulated with aural information may be connected to the input terminals of an FM translator for the purpose of transmitting voice announcements. The radio frequency signals shall be on the same channel as the normally used off-the-air signal being rebroadcast and the duration of such transmissions shall not exceed 20 seconds at intervals of no less than one hour. Connection of the locally generated signals shall be made automatically either by means of a time-switch or upon receipt of a control signal from the FM station being rebroadcast designed to actuate the switching circuit. The switching device shall be so designed that the translator input circuit will be returned to the off-the-air signal within 20 seconds. The apparatus used to generate the local signal which is used to modulate the FM translator must be capable of producing an aural signal which will provide acceptable reception on FM receivers designed for the transmission standards employed by FM broadcast stations. Before commencing originations authorized in this paragraph, the licensee of the translator shall furnish to the Commission a complete description of the apparatus proposed to be used for such local originations.

(g) The aural material transmitted as permitted in paragraph (f) of this section shall be limited to seeking or acknowledging financial support deemed necessary to the continued operation of the translator. Accordingly, such originations are limited to the solicitation of contributions toward defrayal of the costs of installation, operating and maintaining the translator or acknowledgments of financial support for those purposes. Such acknowledgments may include identification of the contributors, the size or nature of the contributions and advertising messages of contributors.

§ 74.1232 Eligibility and licensing requirements.

(a) Subject to the restrictions set forth in paragraph (d) of this section, a license for an FM translator may be issued to any qualified individual, organized group of individuals, broadcast station licensee, or local civil governmental body, upon an appropriate showing that plans for financing the installation and operation of the translator are sufficiently sound to insure prompt construction of the translator and dependable service for the duration of the licensed period.

(b) More than one FM translator may be licensed to the same applicant, whether or not such translators serve substantially the same area, upon an appropriate showing of need for such additional stations. FM translators are not counted as FM stations for purposes of § 73.240 of this chapter, concerning multiple ownership.

(c) Only one channel will be assigned to each FM translator. Additional FM translators may be authorized to provide additional reception. A separate application is required for each FM translator and each application shall be complete in all respects.

(d) An authorization for a commercial FM translator which is intended to provide reception to places which are beyond the 1 mv/m contour of the primary station and within the 1 mv/m contour of another commercial FM broadcast station assigned to a different principal city will not be granted to:

(1) the licensee or permittee of the distant primary FM broadcast station, or

(2) an applicant who receives from the distant FM broadcast station licensee or permittee or from any person associated therewith, a direct or indirect financial contribution toward any costs incurred up to the time such translator commences operation.

NOTE 1. The 1 mv/m contour of an FM broadcast station shall be determined as provided in § 73.313 of this chapter.

NOTE 2. Financial support prohibited in paragraph (d) includes only support for the preparation, filing and prosecution of applications for new FM translators, for the acquisition and installation of transmitting and other apparatus employed by such FM translators, and for the defrayal of any other costs necessary to placing such FM translators in operation. Paragraph (d) thus will not bar or limit contributions or support, by any station licensee or permittee or any other person associated therewith, for the operation or maintenance of a translator, whether such support is provided in the form of financial contributions or by providing operational or maintenance services.

(e) The Commission will not act on applications for new FM translators or for changes in the facilities of an existing translator where such changes will result in an increase in signal range in any horizontal direction until 30 days have elapsed since the date on which public notice is given by the Commission of acceptance for filing of such application, in order to afford licensees of existing FM broadcast stations an opportunity to comment with respect to the effect of the proposed translator on their operations.

§ 74.1234 Unattended operation.

(a) An FM translator may be operated without a licensed radio operator in attendance if the following requirements are met:

(1) If the transmitter site cannot be reached promptly at all hours and in all seasons, means shall be provided so that the transmitting apparatus can be turned on and off at will from a point which is readily accessible at all hours and in all seasons.

(2) The transmitter shall also be equipped with suitable automatic circuits which will place it in a nonradiating condition in the absence of a signal on the imput channel.

(3) The on and off control, if at a location other than the transmitter site, and the transmitting apparatus shall be adequately protected against tampering by unauthorized persons.

(4) The Commission shall be supplied with the name, address, and telephone number of a person or persons who may be contacted to secure prompt suspension of operation of the translator should such action be deemed necessary by the Commission.

(5) In cases where the antenna and supporting structure are required to be painted and lighted under the provisions of Part 17 of this chapter, the licensee shall make suitable arrangements for the daily inspection, notification and logging of the obstruction lighting and associated control equipment as required by §§ 17.47, 17.48, and 17.49 of this chapter.

(b) An application for authority to construct a new FM translator or to make changes in the facilities of an authorized translator which proposes unattended operation shall include an adequate showing as to the manner of compliance with this section.

§ 74.1235 Power limitations.

(a) The power output of the final radio frequency amplifier of an FM translator (except as provided for in paragraph (c) of this section) shall not exceed 1 watt. This power may be fed into a single transmitting antenna or may be divided between two or more transmitting antennas or antenna arrays

in any manner found useful or desirable by the licensee. In individual cases, the Commission may authorize the use of more than one 1-watt final radio frequency amplifier at a single FM translator under the following conditions:

(1) Each such amplifier shall be used to serve a different community or area, which must be described by the name used locally to identify the place. More than one final radio frequency amplifier will not be authorized to provide service to all or a part of the same community or area.

(2) Each final radio frequency amplifier shall feed a separate transmitting antenna or antenna array. The transmitting antennas or antenna arrays shall be so designed and installed that the outputs of the separate radio frequency amplifiers will not combine to reinforce the signals radiated by the separate antennas or otherwise achieve the effect of radiated power in any direction in excess of that which could be obtained with a single antenna of the same design fed by a radio frequency amplifier with power output no greater than that authorized pursuant to paragraph (a) of this section.

(3) FM translators employing multiple final radio frequency amplifiers will be licensed as a single station.

(b) No limit is placed upon the effective radiated power which may be obtained by the use of horizontally or vertically directive transmitting antennas.

(c) In no event shall the FM translator be operated with power in excess of the manufacturer's rating.

§ 74.1236 Emissions and bandwidth.

(a) The license of an FM translator authorizes the transmission of the aural signal by frequency modulation (F3 or F9).

(b) Standard width FM channels will be assigned and the transmitting apparatus shall be operated so as to limit spurious emissions to the lowest practicable value. Any emissions including intermodulation products and radio frequency harmonics which are not essential for the transmission of the desired aural information shall be considered to be spurious emissions.

(c) Emissions appearing outside the assigned channel shall be attenuated as follows:

Distance of emission from center frequency	*Minimum attenuation below unmodulated carrier*
120 to 240 kc/s	25 db
over 240 and up to 600 kc/s	35 db
over 600 kc/s	60 db

(d) Greater attenuation than that specified in paragraph (c) of this section may be required if interference results from emissions outside the assigned channel.

§ 74.1237 Antenna location.

(a) An applicant for a new FM translator or for a change in the facilities of an authorized translator shall endeavor to select a site which will provide a line-of-sight transmission path to the entire area intended to be served and at which there is available a suitable signal from the primary station. The transmitting antenna should be placed above growing vegetation and trees lying in the direction of the area intended to be served, to minimize the possibility of signal absorption by foliage.

(b) Consideration should be given to accessibility of the site at all seasons of the year and to the availability of facilities for the maintenance and operation of the FM translator.

(c) Consideration should be given to the existence of strong radio frequency fields from other transmitters at the translator site and the possibility that such fields may result in the retransmission of signals originating on frequencies other than that of the primary station.

EQUIPMENT

§ 74.1250 Equipment and installation.

(a) The transmitting apparatus employed at an FM translator must be type accepted.

(b) Transmitting antennas, antennas used to receive signals to be rebroadcast, and transmission lines are not subject to the requirement for type acceptance. External preamplifiers may also be used provided that they do not cause improper operation of the translator.

(c) The following requirements must be met before translator equipment will be type accepted by the Commission:

(1) The frequency converter and associated amplifiers shall be so designed that the electrical characteristics of a standard FM signal, including stereophonic subchannel, introduced into the input terminals will not be significantly altered by passage through the apparatus except as to frequency and amplitude. The overall frequency response of the apparatus within its assigned channel when operating at its rated power output and measured at the output terminals, shall provide a smooth curve, varying within limits separated by no more than 3 decibels.

(2) Radio frequency harmonics of the output carrier frequency, measured at the output terminals of the transmitter, shall be attenuated at least 60 decibels below the fundamental output carrier level. All other emissions appearing outside the assigned channel shall conform with the specifications set forth in § 74.1236(c).

(3) The local oscillator or oscillators employed in the translator equipment shall, when subjected to variations in ambient temperature between minus 30° and plus 50° centigrade and in primary supply voltage between 85 percent and 115 percent of the rated value, be sufficiently stable to maintain the output carrier frequency of the translator within plus or minus 0.005 percent of its assigned frequency, assuming zero variation of the received primary station signal from its assigned frequency.

(4) The apparatus shall contain automatic circuits which will maintain the power output constant within 2 decibels when the level of the signal at the input terminals is varied over a range of 40 decibels and which will not permit power output to exceed the maximum rated power output under any condition. If a manual adjustment is provided to compensate for different average signal levels, provision shall be made for determining the proper setting for the control, and if improper adjustment of the control could result in improper operations, a label shall be affixed at the adjustment control bearing a suitable warning.

(5) The apparatus shall be equipped with automatic controls which will place it in a nonradiating condition when no signal is being received on the input channel, either due to absence of a transmitter signal or failure of the receiving portion of the translator. The automatic control may include a time delay feature to prevent interruptions in the translator operation caused by fading or other momentary failures of the incoming signal.

(6) The amplifying devices employed in the final radio frequency amplifier shall be of the appropriate power rating to provide the rated power output of the translator. The normal operating constants for operation at the rated power output shall be specified. The apparatus shall be equipped with suitable meters or meter jacks so that appropriate voltage and current measurements may be made while the apparatus is in operation.

(7) Wiring, shielding, and construction shall be in accordance with accepted principles of good engineering practice

(d) Type acceptance will be granted only upon a satisfactory showing that the apparatus is capable of meeting the requirements of paragraph (c) of this section. The following procedures shall apply:

(1) Any manufacturer of apparatus intended for use at FM translator stations may request type acceptance by following the procedures set forth in Part 2, Subpart F, of this chapter. Equipment found to be acceptable by the Commission will be listed in the "Radio Equipment List", published by the Commission. These lists are available for inspection at any Field Office of the Commission and at the Washington, D.C., offices of the Commission.

(2) FM broadcast translator apparatus which has been type accepted by the Commission will normally be authorized without additional measurements by the applicant.

(3) Other rules concerning type acceptance including information regarding withdrawal of type acceptance, modification of type accepted equipment and limitations on the findings upon which type acceptance is based, are set forth in Part 2, Subpart F, of this chapter.

(e) The installation of an FM translator station employing type accepted apparatus may be made by a person with sufficient technical knowledge and skill to correctly follow the manufacturer's instructions.

(f) Simple repairs such as the replacement of tubes, fuses, or other plug-in components and the adjustment of noncritical circuits which require no particular technical skill may be made

by an unskilled person. Repairs which require the replacement of attached components, adjustment of critical circuits, or technical measurements shall be made only by a person with the knowledge and skill to perform such tasks.

(g) Any tests or adjustments which require the radiation of signals for their completion and which could result in improper operation of the apparatus, shall be made by or under the immediate supervision of a licensed first or second class radiotelephone operator.

(h) The transmitting antenna may be designed to produce either horizontal or vertical polarization.

§ 74.1251 Equipment changes.

(a) No change, either mechanical or electrical, except as provided for in § 2.584 of this chapter, may be made in FM translator apparatus which has been type accepted by the Commission without prior authority of the Commission.

(b) Formal application (FCC Form ------) is required for any of the following changes:

(1) Replacement of the translator as a whole except in those cases where the replacement is an identical translator or is a translator of identical power rating and is listed in the Commission's "Radio Equipment List". The Commission's office in Washington, D.C., and the Engineer in Charge of the Radio District in which the translator is located shall be promptly notified of translator replacements made without formal authorization pursuant to the exceptions of this paragraph giving the manufacturer and type number of the new translator together with a statement certifying that the new installation is operating in accordance with Commission rules and the terms of the license.

(2) A change in the transmitting antenna system, including the direction of radiation or directive antenna pattern.

(3) Any change in the antenna which will increase the overall height of the antenna structure.

(4) Any change in the location of the translator except a move within the same building or upon the same pole or tower.

(5) Any horizontal change in the location of the transmitting antenna of more than 500 feet.

(6) A change of frequency assignment.

(7) A change of the primary FM station being retransmitted.

(8) A change of authorized operating power.

(c) Other equipment changes not specifically referred to above may be made at the discretion of the licensee, provided that the Engineer in Charge of the radio district in which the FM translator station is located and the Commission's Washington, D.C. office are notified in writing upon completion of such changes, and provided further that the changes are appropriately reflected in the next application for renewal of license of the FM translator station.

TECHNICAL OPERATION AND OPERATORS

§ 74.1261 Frequency tolerance.

The licensee of an FM translator shall maintain the center frequency at the output of the translator within 0.005 percent of its assigned frequency.

§ 74.1262 Frequency monitors and measurements.

(a) The licensee of an FM translator is not required to provide means for measuring the operating frequency of the transmitter. However, only equipment having the required stability will be approved for use at an FM translator.

(b) In the event that an FM translator is found to be operating beyond the frequency tolerance prescribed in § 74.1261, the licensee shall promptly suspend operation of the translator and shall not resume operation until the translator has been restored to its assigned frequency. Adjustment of the frequency determining circuits of an FM translator shall be made only by a qualified person in accordance with § 74.1250(g).

§ 74.1263 Time of operation.

(a) An FM translator is not required to adhere to any regular schedule of operation. However, the licensee of an FM translator is expected to provide a dependable service to the extent that such is within its control and to avoid unwarranted interruptions to the service provided.

(b) If causes beyond the control of the licensee require that an FM translator remain inoperative for a period in excess of 10 days, the Engineer in Charge of the radio district in which the station is located shall be notified promptly in writing, describing the cause of failure and the steps taken to place the translator in operation again, and shall be notified promptly when the operation is resumed.

(c) Failure of an FM translator to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuance of operation and the license of the translator will be canceled.

(d) An FM translator shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted.

§ 74.1264 Station inspection.

The licensee of a television broadcast translator station shall make the station and the records required to be kept by the rules in this subpart available for inspection by representatives of the Commission.

§ 74.1265 Posting of station license.

(a) The station license and any other instrument of authorization or individual order concerning the construction of the station or the manner of operation shall be kept in the station record file maintained by the licensee so as to be available for inspection upon request to any authorized representative of the Commission.

(b) The call sign of the translator together with the name, address, and telephone number of the licensee or local representative of the licensee if the licensee does not reside in the community served by the translator, shall be displayed at the translator site on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground at the transmitter site. The display shall be prepared so as to withstand normal weathering for a reasonable period of time and shall be maintained in a legible condition by the licensee.

§ 74.1266 Operator requirements.

(a) An operator holding a valid restricted radiotelephone operator permit shall observe the operation of the FM translator by obtaining reception of its transmissions as frequently as may be necessary to assure proper operation, but in any event within one hour of the time the primary station commences operation or at 8 a.m., whichever is later, and thereafter at intervals of not more than 6 hours. Except as necessary in case of malfunction of the translator, such observations need not be made between 10 p.m. and 8 a.m. the following day.

(b) In the event of malfunction, or upon notice by the Commission, the operator shall immediately cause the operation of the translator to cease until the malfunction is corrected or until the interference or other reason for Commission notice is corrected.

§ 74.1267 Marking and lighting of antenna structures.

The marking and lighting of antenna structures employed at an FM translator, where required, will be specified in the authorization issued by the Commission. Part 17 of this chapter sets forth the conditions under which such marking and lighting will be required and the responsibility of the licensee with regard thereto.

§ 74.1268 Additional orders.

In cases where the rules contained in this part do not cover all phases of operation or experimentation with respect to external effects, the Commission may make supplemental or additional orders in each case as may be deemed necessary.

§ 74.1269 Copies of rules.

The licensee of an FM translator shall have current copies of Part 73, Part 74, and in cases where antenna marking is required, Part 17 of this chapter available for use by the operator in charge, and is expected to be familiar with those rules relating to the operation of an FM translator station. Copies of the Commission's rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, at nominal cost.

OTHER OPERATING REQUIREMENTS

§ 74.1281 Station records.

(a) The licensee of an FM translator shall maintain adequate station records,

including the current instrument of authorization, official correspondence with the Commission, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Where an antenna structure is required to be painted or illuminated, see § 17.49 of this chapter.

(c) The station records shall be made available upon request to any authorized representatives of the Commission.

(d) Station records shall be retained for a period of 2 years.

§ 74.1284 Rebroadcasts.

(a) The term "rebroadcast" means the reception by radio of the programs or other signals of a radio or television station and the simultaneous or subsequent retransmission of such programs or signals for direct reception by the general public.

(b) The licensee of an FM translator shall not rebroadcast the programs of any FM broadcast station or other FM translator without obtaining prior consent of the station whose signals or programs are proposed to be retransmitted. The Commission shall be notified of the call letters of each station rebroadcast and the licensee of the FM translator shall certify that written consent has been received from the licensee of the station whose programs are retransmitted.

(c) An FM translator is not authorized to rebroadcast the transmissions of any class of station other than an FM broadcast station or another FM translator.

[F.R. Doc. 69-649; Filed, Jan. 16, 1969; 8:49 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. R-356]

MUNICIPAL ELECTRIC UTILITIES

Sales of Electricity for Resale

JANUARY 8, 1969.

1. Notice is hereby given pursuant to section 4 of the Administrative Procedure Act that the Federal Power Commission is proposing to revise Instruction 1. of the schedule titled "Sales of Electricity for Resale", contained in Commission Form No. 1-M. The proposed revision provides a breakdown between firm power sales supplying a customer's total system requirements or total requirements at a specific point of delivery, and firm power sales supplementing the customer's own generation or other purchases.

2. The aforesaid change in FPC Form No. 1-M is needed to obtain data which will be reflected in a new Commission publication to be titled "Sales of Firm Electric Power for Resale". The wording of the revision in Instruction 1. to the schedule titled "Sales of Electricity for Resale" is as indicated in the sample page 5 attached hereto.[1]

[1] Form filed as part of the original document.

3. The proposed change in FPC Form No. 1-M is proposed to be issued under the authority granted to the Federal Power Commission by the Federal Power Act, as amended, particularly sections 309 and 311 thereof (49 Stat. 858 and 859; 16 U.S.C. 825h and 825j).

4. Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than February 24, 1969, data, views, and comments in writing concerning the matters herein proposed. An original and 14 conformed copies should be filed with the Commission. In addition, interested persons wishing to have their comments considered in the clearance of the proposed report form revision under the provisions of the Federal Reports Act of 1942 may at the same time submit a conformed copy of their comments directly to the Clearance Officer, Office of Statistical Standards, Bureau of the Budget, Washington, D.C. 20503. Submissions to the Commission should indicate the name and address of the person to whom correspondence in regard to the proposal should be addressed, and whether the person filing them requests a conference at the Federal Power Commission to discuss the proposed revision in the report form. The Commission will consider all such written submissions before acting on the matters herein proposed.

By direction of the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 69-597; Filed, Jan. 16, 1969; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 69-24]

TARIFF CLASSIFICATION

Retail Packages of Edible Preparations

Pursuant to § 16.10a(d), Customs Regulations, the Bureau of Customs gave notice in the FEDERAL REGISTER of December 12, 1968 (33 F.R. 18449), that it would review the existing established and uniform practice of classifying various edible preparations containing over 5.5 percent by weight of butterfat in item 182.95, Tariff Schedules of the United States (TSUS), on the basis that the size and labeling of the package alone are sufficient to show that the product is packaged for retail sale. This review has been completed and all representations received have been carefully considered.

The review shows that the packaging and labeling of a product containing over 5.5 percent by weight of butterfat is not sufficient in and of itself to establish that the product is packaged for retail sale.

Accordingly, it is the decision of the Bureau that edible preparations containing over 5.5 percent by weight of butterfat will not be considered to be packaged for retail sale and classifiable in item 182.95, TSUS, in the absence of satisfactory evidence showing that the packages are in fact chiefly used in the retail trade.

This ruling shall apply only to such articles containing over 5.5 percent by weight of butterfat as are entered, or withdrawn from warehouse, for consumption after the expiration of 90 days after the date of publication of this ruling in the weekly Customs Bulletin.

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

[F.R. Doc. 69-654; Filed, Jan. 16, 1969; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

National Park Service

HALEAKALA NATIONAL PARK, HAWAII

Addition

Notice is hereby given that, pursuant to authority contained in the Act of June 20, 1938 (52 Stat. 781; 16 U.S.C. 391a-15), and in accordance with provisions of the Act of September 13, 1960 (74 Stat. 881; 16 U.S.C. 396b), the boundaries of the Haleakala National Park on the island of Maui in Hawaii are extended and revised to include approximately 880 additional acres of land, as depicted on a map of that park bearing the identification 162-20001, January 1969, RPSSC.

The map depicting the boundary of Haleakala National Park as hereby extended and revised is on file and available for public inspection in the Offices of the National Park Service, Washington, D.C., and in the Office of the Superintendent, Haleakala National Park.

STEWART L. UDALL,
Secretary of the Interior.

JANUARY 10, 1969.

[F.R. Doc. 69-652; Filed, Jan. 16, 1969; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

TENNESSEE

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 State of Tennessee, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

TENNESSEE

Chester.	Humphreys.
Coffee.	Lauderdale.
Crockett.	Lincoln.
Fayette.	Madison.
Franklin.	Moore.
Hardeman.	Shelby.
Haywood.	Tipton.
Henderson.	Warren.
Henry.	Weakley.

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 14th day of January 1969.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 69-663; Filed, Jan. 16, 1969; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

UNIVERSITY OF HOUSTON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00163-01-72000. Applicant: University of Houston, 3800 Cullen Boulevard, Houston, Tex. 77004. Article: Weissenberg rheogoniometer, Model R.18. Manufacturer: Sangamo Controls Ltd., United Kingdom. Intended use of article: The article will be used for undergraduate and graduate laboratory work with Non-Newtonian Fluids from which viscosity, normal stress, and oscillatory data could be obtained for polymer solutions and melts. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is capable of measuring normal stress as well as viscosity as a function of the shear rate. There is no known comparable domestic instrument being manufactured in the United States which has this capability. The ability of the foreign article to measure normal stress as well as viscosity as a function of the shear rate is necessary to the accomplishment of the purposes for which such article is intended to be used and, therefore, is pertinent to this purpose.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69-588; Filed, Jan. 16, 1969; 8:45 a.m.]

UNIVERSITY OF ROCHESTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00014-33-46040. Applicant: The University of Rochester, Purchasing Department, River Campus Station, Rochester, N.Y. 14620. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used for research on the structure of macromolecular constituents of cells and particularly of protein molecules and their subunits. These include: (1) The proteins ferritin and apoferritin, actin, myosin, several phosphorylases and antibody molecules; (2) constituents of isolated cell particles such as mitochondria and chromosomes; (3) inorganic compounds of iron such as hydrous ferric oxides, located in cells or tissues; (4) structural components of viruses and bacteria. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the applicant placed the order for the foreign article (April 1968). Reasons: (1) The foreign article provided a guaranteed resolution of 5 angstroms. The only domestic electron microscope available prior to July 1, 1968 was the Model EMU-4 which was manufactured by the Radio Corporation of America (RCA). The RCA Model EMU-4 had a guaranteed resolution of 8 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolution.) The additional resolution of the foreign article is considered pertinent to the purposes for which this article is intended to be used. (2) The foreign article provides accelerating voltages of 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU-4 provided only 50 and 100 kilovolt accelerating voltages. It has been experimentally established that the voltage intermediate between 50 and 100 kilovolts provides the optimum contrast for negatively stained specimens. Therefore, the additional accelerating voltage of the foreign article is pertinent.

For these reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States and available at the time the applicant placed the order for the foreign article.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69-589; Filed, Jan. 16, 1969; 8:45 a.m.]

YALE UNIVERSITY

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D. C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69-00251-01-77030. Applicant: Yale University, 20 Ashmun Street, New Haven, Conn. 06520. Article: Nuclear magnetic resonance spectrometer, Model HFX-3. Manufacturer: Bruker Scientific, Inc., West Germany. Intended use of article: The article will be used to determine ^{13}C (Carbon 13) chemical shifts in mixtures of purine and pyrimidine bases. These studies will give unique information regarding Watson-Crick base-pairing. Also ^{13}C nuclear magnetic resonance spectra for DNA (deoxyribonucleic acid) itself will be accomplished. In addition, active site studies of 20 umolar solutions of thymidine triphosphate and 1-(2-deoxy-Beta-dextroseribofuranosyl)-5-iodouracil triphosphate with enzyme thymidine kinase are planned. Application received by Commissioner of Customs: October 29, 1968.

Docket No. 69-00255-33-46040. Applicant: Northwestern University, Cresap Biology Laboratory, Evanston, Ill. 60201. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for both educational and research purposes. Educational use will include a course in submicroscopic morphology—a four credit one quarter course offered to graduate students.

The following research projects will be carried out using the electron microscope:

(i) Ultrastructure of the synaptonemal complex in premeiotic cells of the egg chamber of *Drosophila melanogaster*.

(ii) Ultrastructure of the skin of the lamprey eel.

(iii) Fine Structure and Reconstruction of the Nucleolus in wild type and the *singed* mutant of *Drosophila melanogaster*.

(iv) Ultrastructure of the Foot Pad Cells of *Sarcophaga bullata* and *Musca domestica* during cuticle formation.

(v) Ultrastructural analysis of mitotic patterns in the developing egg chamber of the *fes* mutant of *Drosophila melanogaster*.

(vi) Ultrastructural changes in insect nervous systems during metamorphosis.

(vii) Cytology of the Vitellogenic stages of oogenesis in *Drosophila melanogaster*.

(viii) Ultrastructure of the synaptonemal complex in *Drosophila virilis*.

Application received by Commissioner of Customs: October 29, 1968.

Docket No. 69-00257-81-65500. Applicant: State University of New York at Stony Brook, N.Y., Stony Brook, N.Y. 11790. Article: Direct current comparator potentiometer, Model 9930. Manufacturer: Guildline Instruments Ltd., Canada. Intended use of article: The article will be used as an essential potentiometric system required to support the graduate research program in aiding both faculty and students for the College of Engineering. The second important function of this article will be to establish a DC Standard system directly traceable to National Bureau of Standards. Application received by Commissioner of Customs: October 29, 1968.

Docket No. 69-00258-01-28200. Applicant: University of Pittsburgh, Fifth Avenue and Bigelow Boulevard, Pittsburgh, Pa. 15213. Article: Electron spin resonance spectrometer, Model B-ER 418S. Manufacturer: Bruker-Physik A.G., West Germany. Intended use of article: The article will be used to study the occurrence of antiferromagnetic ordering of transition metal ions in solid state at temperatures in the liquid helium region, and also for teaching and general studies of various materials which are spin resonance active. Application received by Commissioner of Customs: October 30, 1968.

Docket No. 69-00259-33-28200. Applicant: University of Pittsburgh, Fifth Avenue and Bigelow Boulevard, Pittsburgh, Pa. 15213. Article: Electron spin resonance instrument, Model B-ER 418S. Manufacturer: Bruker-Physik AG, West Germany. Intended use of article: The article will be used for both teaching and research purposes in the fields of biomedical sciences for the following:

1. To determine the exact orientation of the heme groups in both normal and abnormal human hemoglobins in the form of single crystal in both ferro—and ferric states.

2. To use the spin-labelled technique to investigate the conformations of important biological systems, such as a nucleic acids, proteins, and cell membranes.

The Spectrometer will be used for teaching and research in other areas of biochemistry and biophysics in the near future. Application received by Commissioner of Customs: October 30, 1968.

Docket No. 69-00260-01-07520. Applicant: The Johns Hopkins School of Medicine, 725 North Wolfe Streets, Baltimore,

Md. 21205. Article: Batch microcalorimeter, Model LKB 10700–2B. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to measure the heats of various protein reactions such as conformational changes and substrate binding. In addition to these protein studies similar studies of nucleic acids and lipid systems are also being considered. The necessity to measure small quantities of heats precisely in the reactions just mentioned using small quantities of material require a microcalorimeter of very high precision. Application received by Commissioner of Customs: October 30, 1968.

Docket No. 69–00261–33–46040. Applicant: U.S. Department of Agriculture, Animal Disease & Parasite Research Division, Agricultural Research Center, Beltsville, Md. 20705. Article: Electron microscope, Model EM 200. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used for a broad and continuing program of research which has the following objectives:

(1) Studies on the ultrastructure of the intraerythrocytic hemoprotozoan parasites *Anaplasma marginale, Babesia caballi,* and *Babesia equi.*

(2) Identification and characterization of the above parasites within their arthropod vectors.

(3) Investigations on the effect of chemotherapeutic agents on the ultrastructure, particularly the cell membranes and matrices of the above mentioned hemoprotozoan parasites, using both stained and unstained specimens.

(4) Studies on the host cell and parasite interface to evaluate the effect of certain macro-molecules which bring about a state of immunological tolerance within the host, using negative staining techniques.

Application received by Commissioner of Customs: October 31, 1968.

Docket No. 69–00263–00–41200. Applicant: Health Research Inc., Roswell Park Division, 666 Elm Street, Buffalo, N.Y. 14203. Article: Klystron tube, Type VC–104. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article will be used as a component to an existing instrument for the study of radiation damage in organs and biological materials. The scope of this work extends to the study of radiation protection measures as well. Application received by Commissioner of Customs: November 5, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69–590; Filed, Jan. 16, 1969; 8:45 a.m.]

Office of the Secretary

[Dept. Order 83, Amdt. 3]

ORGANIZATION CHART

Effect on Other Orders

The following amendment to the order was issued by the Secretary of Commerce on December 31, 1968. This material further amends the material appearing at 32 F.R. 13422 of September 23, 1967; 32 F.R. 20819 of December 27, 1967; and 33 F.R. 4894 of March 22, 1968.

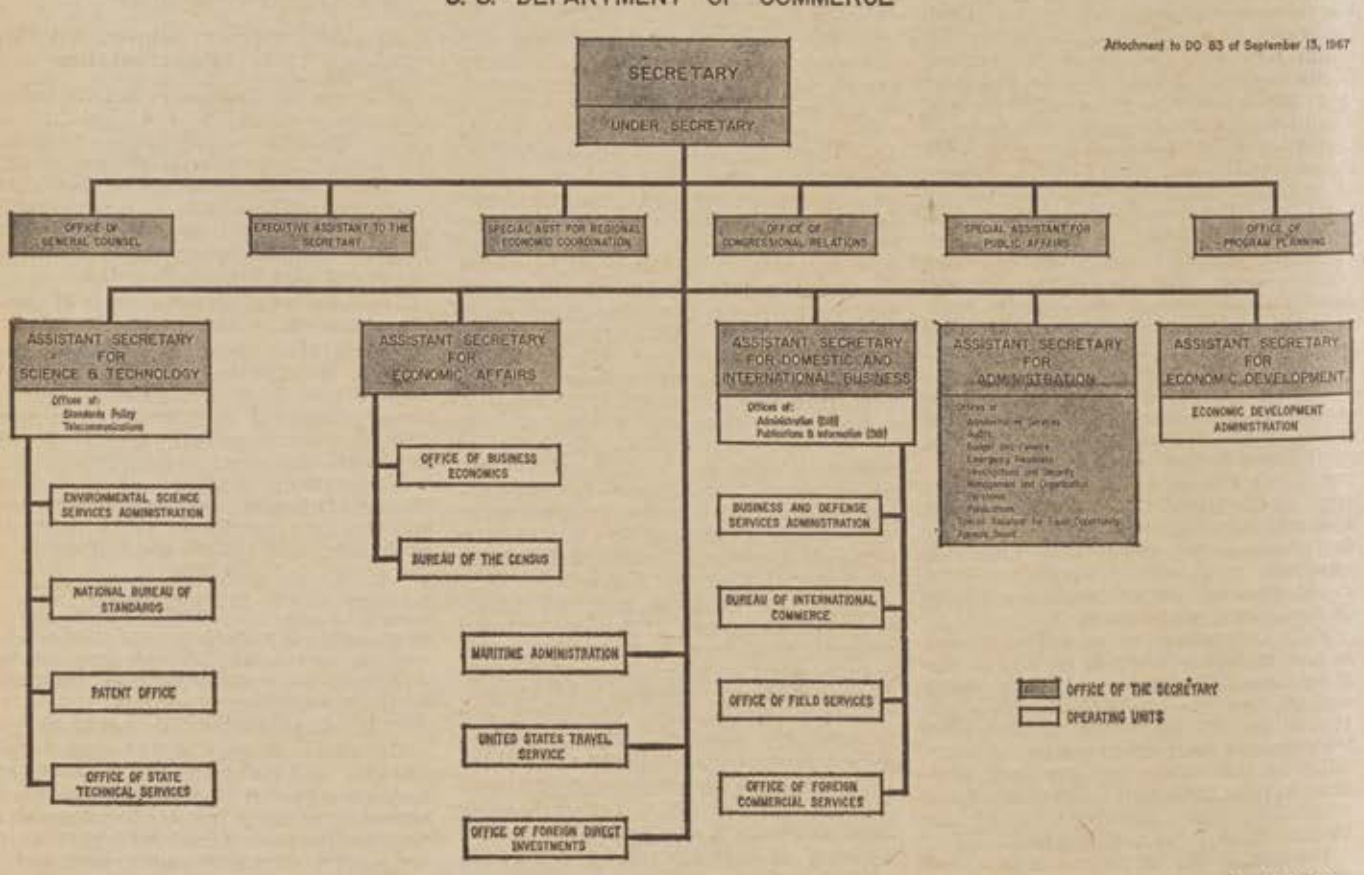
Department Order 83, dated September 13, 1967, is hereby further amended as follows:

In sec. 6. *Effect on other orders,* paragraph .02 is revised to read:

".02 The attached organization chart, dated December 31, 1968, supersedes the organization chart of the U.S. Department of Commerce (attachment to Department Order 83 of September 13, 1967), dated March 11, 1968."

The revised chart reflects the following changes: The title of the "Assistant to the Secretary" is changed to the "Executive Assistant to the Secretary"; the establishment of the position of the Special Assistant to the Secretary for Regional Economic Coordination; and the establishment of the Office of Program Planning.

DAVID R. BALDWIN,
Assistant Secretary for Administration.



[F.R. Doc. 69–591; Filed, Jan. 16, 1969; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

GENERAL MILLS, INC.

Notice of Filing of Petitions for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that petitions (FAP 9B2377, 9B2378) have been filed by General Mills, Inc., 2010 East Hennepin Avenue, Minneapolis, Minn. 55413, proposing the issuance of a food addditive regulation (21 CFR Part 121) to provide for the safe use of hydroxypropyl guar gum and sodium carboxymethyl guar gum as optional components of paper and paperboard intended for food-contact use.

Dated: January 8, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-637; Filed, Jan. 16, 1969; 8:48 a.m.]

BLOAT REMEDY

Drugs for Veterinary Use—Drug Efficacy Study Implementation

The Food and Drug Administration has received and evaluated a report from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Bloat Remedy; contains 10 percent weight-to-volume of pelargonic acid, 10 percent weight-to-volume of propylene glycol laurate, and 45 percent by volume of isopropyl alcohol; manufactured by Chas. Pfizer & Co., 235 East 42d Street, New York, N.Y. 10017.

The Food and Drug Administration concurs with the conclusions of the Academy that the preparation is probably not effective as a bloat remedy and that evidence is insufficient to support the claim for effectiveness in bloat.

This evaluation of the drug is concerned only with its effectiveness and safety to the animal to which it is administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing in this announcement will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new-drug applications of the findings of the Academy and of the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new-drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of the new-drug applications are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Written comments regarding this announcement, including request for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

The holder of the new-drug application for the drug listed above has been mailed a copy of the NAS-NRC report. 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 writing to the Food and Drug Administration, Press Relations Office, 200 C Street SW., Washington, D.C. 20204.

This notice 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: January 9, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-638; Filed, Jan. 16, 1969; 8:48 a.m.]

COECOLYSIN BENGAN

Drugs for Veterinary Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Coecolysin Bengan; contains active organic substance extracted from the walls of horse and bovine intestines; marketed by Dr. Stephen Jackson, 7801 Woodmont Avenue, Washington, D.C. 20014.

The Academy has evaluated this drug as probably not effective for increasing peristalsis of the gastrointestinal tract in horses, cattle, sheep, hogs, and dogs. More data are necessary to justify the claim. The Food and Drug Administration concurs in the evaluation.

This evaluation of the drug is concerned only with its effectiveness and safety to the animal to which it is administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing in this announcement will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new-drug applications of the findings of the Academy and of the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new-drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of the new-drug applications are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Written comments regarding this announcement, including request for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

The holder of the new-drug application for the drug listed above has been mailed a copy of the NAS-NRC report. 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 writing to the Food and Drug Administration, Press Relations Office, 200 C Street SW., Washington, D.C. 20204.

This notice 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: January 9, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-639; Filed, Jan. 16, 1969; 8:48 a.m.]

DR. MAYFIELD 3WC

Drugs for Veterinary Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Dr. Mayfield 3WC; contains 5 percent diammonium arsenate; marketed by Dr. Mayfield Laboratories, 1209 South Main Street, Charles City, Iowa 50616.

The Academy concluded that this preparation is probably not effective for the removal of large roundworms (*Ascaridia*) in chicken broilers and that no data are available to support efficacy claims. The Food and Drug Administration concurs with the conclusions of the Academy.

This evaluation of the drug is concerned only with its effectiveness and safety to the animal to which it is administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing in this announcement will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new-drug applications of the findings of the Academy and of the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new-drug applications and otherwise comply with all

other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of the new-drug applications are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Written comments regarding this announcement, including request for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

The holder of the new-drug application for the drug listed above has been mailed a copy of the NAS–NRC report. 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 writing to the Food and Drug Administration, Press Relations Office, 200 C Street SW., Washington, D.C. 20204.

This notice 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: January 9, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-640; Filed, Jan. 16, 1969; 8:48 a.m.]

PURGOLETTES

Drugs for Veterinary Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Purgolettes; contains 150 milligrams of diacetyldioxyphenylisatin (acetphenolisatin) per bolette; marketed by Norden Labs., Inc., Lincoln, Nebr. 68501.

The Academy concludes (1) that this drug is probably not effective as a purgative for cattle, horses, sheep, and swine and (2) that the claims made for the drug are inappropriate and unwarranted for the above species in the absence of sound documentation. The Food and Drug Administration concurs with the conclusions of the Academy.

This evaluation of the drug is concerned only with its effectiveness and safety to the animal to which it is administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing in this announcement will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new-drug applications of the findings of the Academy and of the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new-drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of the new-drug applications are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

The holder of the new-drug application for the drug listed above has been mailed a copy of the NAS–NRC report. Any manufacturer, packer, or distributor of a drug of similar composition and labeling to that drug or any other interested person may obtain a copy of the report by writing to the Food and Drug Administration, Press Relations Office, 200 C Street SW., Washington, D.C. 20204.

This notice 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: January 9, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-641; Filed, Jan. 16, 1969; 8:48 a.m.]

TRIVERMOL

Drugs for Veterinary Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Trivermol; contains 0.2 gram of copper sulfate, 0.2 gram of nicotine sulfate, 0.2 gram of copper acid arsenate, 1.0 cubic centimeter of carbon tetrachloride, and 3.0 cubic centimeters of mineral oil per each 10 cubic centimeters of aqueous suspension; marketed by Jensen-Salsbery Laboratories, Kansas City, Mo. 64141.

The Academy has evaluated this drug as probably not effective for oral use in sheep, goats, lambs, and kids against nematodes, tapeworms, and flukes. Available data are inadequate to support efficacy claims for this combination of ingredients. The Food and Drug Administration concurs in the evaluation.

This evaluation of the drug is concerned only with its effectiveness and safety to the animal to which it is administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing in this announcement will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new-drug applications of the findings of the Academy and of the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new-drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of the new-drug applications are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Written comments regarding this announcement, including request for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

The holder of the new-drug application for the drug listed above has been mailed a copy of the NAS–NRC report. 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 writing to the Food and Drug Administration, Press Relations Office, 200 C Street SW., Washington, D.C. 20204.

This notice 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: January 9, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-642; Filed, Jan. 16, 1969; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-274]

GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

Notice of Proposed Issuance of Facility License

The Atomic Energy Commission ("the Commission") is considering the issuance of a facility license, substantially in the form set forth below, to U.S. Geological Survey, Department of the Interior (USGS) which would authorize the possession, use, and operation of a TRIGA Mark I type nuclear research reactor facility at steady-state power levels up to 1,000 kilowatts (thermal) on its Federal Center site in Denver, Colo. Construction of the reactor was authorized by Construction Permit No. CPRR-102 issued October 10, 1967.

Prior to issuance of the license, the facility will be inspected by representatives of the Commission to determine

whether it has been constructed in accordance with the provisions of Construction Permit No. CPRR–102. Upon issuance of the license, USGS will be required to execute an indemnity agreement as required by section 170 of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 140 of the Commission's regulations.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by the issuance of this facility license may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this proposed license, see (1) the application dated January 13, 1967, and supplements thereto, (2) a related Safety Evaluation prepared by the Division of Reactor Licensing, and (3) the proposed Technical Specifications, all of which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the Safety Evaluation may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 13th day of January 1969.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

U. S. GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR (USGS)

[Docket No. 50–274; License No. R–------]

PROPOSED FACILITY LICENSE

The Atomic Energy Commission ("the Commission") having found with respect to the application for license of U.S. Geological Survey, Department of the Interior (hereinafter "USGS" or "the licensee"), that:

a. The application for license complies with the requirements of the Atomic Energy Act of 1954, as amended (hereinafter "the Act"), and the Commission's regulations set forth in Title 10, Chapter 1, CFR;

b. The reactor has been constructed in conformity with Construction Permit No. CPRR–102 and will operate in conformity with the application and in conformity with the Act and the rules and regulations of the Commission;

c. There is reasonable assurance that the reactor can be operated at the designated location without endangering the health and safety of the public;

d. USGS is technically and financially qualified to engage in the proposed activities in accordance with the Commission's regulations;

e. The issuance of this license will not be inimical to the common defense and security or to the health and safety of the public;

f. USGS is a Federal agency and need not furnish proof of financial protection as would otherwise be required by subsection 170a of the Act.

Facility License No. R–------ effective as of the date of issuance, is issued as follows:

1. This license applies to the TRIGA Mark I type nuclear reactor (herein "the reactor"), owned by U.S. Geological Survey, Department of the Interior and located on the USGS Federal Center site, Denver, Colo., and which is described in the application for license dated January 13, 1967, and supplements thereto dated February 27, June 21, and August 11, 1967, and May 10, and June 26, 1968 (herein referred to as "the application"), and authorized for construction by Construction Permit No. CPRR–1u2.

2. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses USGS:

A. Pursuant to section 104c of the Act and Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities", to possess, use and operate the reactor as a utilization facility in accordance with the procedures and limitations described in the application and in this license;

B. Pursuant to the Act and Title 10, Chapter 1, CFR, Part 70, "Special Nuclear Material", to receive, possess and use up to 4 kilograms of uranium-235 for use in connection with operation of the reactor; and

C. Pursuant to the Act and Title 10, Chapter 1, CFR, Part 30, "Rules of General Applicability to Licensing of Byproduct Material", to receive, possess and use up to 3 curies of sealed americium-beryllium neutron source and a 10-curie sealed polonium-beryllium neutron source, either of which may be used for reactor startup; and to possess, but not to separate, such byproduct material as may be produced by operation of the reactor.

3. This license shall be deemed to contain and be subject to the conditions specified in Part 20, § 30.34 of Part 30, §§ 50.54 and 50.59 of Part 50, and § 70.32 of Part 70 of the Commission's regulations; is subject to all applicable provisions of the Act and rules, regulations, and orders of the Commission now or hereafter in effect, and is subject to the additional conditions specified or incorporated below:

A. *Maximum power level.* The licensee may operate the reactor at steady-state power levels up to a maximum of 1,000 kilowatts (thermal).

B. *Technical specifications.* The technical specifications contained in Appendix A to this license are hereby incorporated in this license. The licensee shall operate the reactor in accordance with these technical specifications. No changes shall be made in the technical specifications unless authorized by the Commission as provided in section 50.59 of 10 CFR Part 50.

C. *Records.* In addition to those otherwise required under this license and applicable regulations, the licensee shall keep the following records:

(1) Reactor operating records, including power levels and periods of operation at each power level.

(2) Records showing radioactivity released or discharged into the air or water beyond the effective control of the licensee as measured at or prior to the point of such release or discharge.

(3) Records of emergency shutdowns and inadvertent scrams, including reasons therefor.

(4) Records of maintenance operations involving substitution or replacement of reactor equipment or components.

(5) Records of experiments installed including description, reactivity worths, locations, exposure time, total irradiation and any unusual events involved in their handling.

(6) Records of tests and measurements performed pursuant to the Technical Specifications.

D. *Reports.* In addition to reports otherwise required by applicable regulations:

(1) The licensee shall inform the Commission of any incident or condition relating to the operation of the reactor which prevented or could have prevented a nuclear system from performing its safety function as described in the technical specifications or in the safety analysis report. For each such occurrence, USGS shall promptly notify by telephone or telegraph the Director of the appropriate Atomic Energy Commission Regional Compliance Office listed in Appendix D of 10 CFR Part 20 and shall submit within ten (10) days a report in writing to the Director, Division of Reactor Licensing (hereinafter, "Director, DRL"), with a copy to the Regional Compliance Office.

(2) As promptly as practicable, but no later than sixty (60) days after the initial criticality of the facility, USGS shall submit a written report to the Director, DRL, describing the measured values of the operating conditions or characteristics listed below and evaluating any significant variation of a measured value from the corresponding predicted value:

(a) Maximum excess reactivity of the facility, not including the worth of control rods or other control devices such as burnable poison strips or soluble poison, or any experiments;

(b) Total control rod reactivity worth;

(c) Minimum shutdown margin both at room and operating temperatures;

(d) Maximum worth of the single control rod of highest reactivity value; and

(e) Maximum total and individual reactivity worth of any fixed or movable experiments inserted in the facility.

(3) The licensee shall report to the Director, DRL, in writing within thirty (30) days of its occurrence any substantial variance disclosed by operation of the reactor from performance specifications contained in the safety analysis report or in the Technical Specifications.

(4) The licensee shall report to the Director, DRL, in writing within thirty (30) days of ts occurrence, any significant change in the transient or accident analysis, as described in the safety analysis report.

4. This license is effective as of the date of issuance and shall expire at midnight, October 10, 2007.

Attachment: Appendix A—Tech Specs.[1]

Date of Issuance:

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 69–628; Filed, Jan. 16, 1969; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 17160 etc.; Order 69–1–54]

AIR CARRIER AGREEMENTS

Order Regarding Accessorial Cargo Services

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of January 1969.

[1] This item was not filed with the Office of the Federal Register but is available for inspection in the public document room of the Atomic Energy Commission.

Dockets Nos. 17160, 17167, and 18070.

By Order 68–10–105, dated October 18, 1968, the Board proposed to approve nine direct air carrier agreements on accessorial cargo services, to disapprove one agreement relating to Advance Charges, and to impose certain reporting requirements on the carriers as to actions taken pursuant to the self-enforcement provisions contained within said agreements. Interested persons were provided a period of 30 days for comment on the Board's proposed action.

Responses were received from the Air Transport Association (ATA),[1] the society of American Florists (Society), and Harvey Aluminum, Inc. (Harvey). The ATA has also filed a motion for leave to file an accompanying reply to the comments of the latter two respondents.

In brief, Society protests the agreement (CAB 19847) on proof-of-delivery, based on their conclusion that an air carrier has an obligation to prove, by means of a photocopy of a delivery receipt, that delivery was in fact accomplished. The agreement provides that a charge will be assessed for such photocopy. Society and Harvey also protest the agreement (CAB 19727) concerning special procedures for shippers documents, on the premise that they will be precluded (a) from inserting in their shipping documents certain shipper or consignee-oriented numbers, such as purchase order number; or (b) from attaching to their shipping documents certain other related papers, such as a manifest or additional surface carrier bill-of-lading for onward carriage beyond the air destination.

In response to the foregoing protests of agreement CAB 19727, ATA states that none of the practices cited are prohibited by the agreement for the reason that it relates primarily to invoicing for shipments.

ATA also requests elimination of the proposed additional monthly self-enforcement[2] reporting requirements, or modification thereof to permit a semi-annual report. ATA also requests a 60-day deferment of the Board's proposed disapproval of the agreement (CAB 19848) on Advance Charges for the purpose of developing additional factual data.

Upon consideration of the responses and other relevant matters, the Board will issue final approval of the earlier-announced nine agreements, will defer final action on agreement CAB 19848 (Advance Charges), and will modify the proposed carrier reporting requirements as to self-enforcement activities.

A review of agreement CAB 19727 supports the view that the desired shipper practice concerning insertion of consignor/consignee numbers on shipping documents is not prohibited as alleged, neither is the attachment thereto of related documents. With respect to agreement CAB 19847—Proof of Delivery, we do not agree with the conclusion of Society that the air carriers have a basic obligation to provide written evidence that delivery was effected by the furnishing of a photocopy of a signed delivery receipt.[3]

As to the additional reporting requirements on informal self-enforcement activities, the Board was aware of the prior reporting requirements on formal actions[4] at the time of the release of Order 68–10–105. However, the Board wants to find out if self-enforcement in this area is of benefit. If many self-enforcement investigations are resolved without formal action, there would be no means under current reporting requirements by which the Board could determine if the practices agreed upon were being policed, or what corrective measures are taken. Lastly, until the filing of the instant agreements, virtually no cargo matters have been subject to self-enforcement. For these reasons, the Board will finalize its proposed additional reporting requirements. However, in recognition of the requested simplification, the Board will accept quarterly reports.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 412, and 414 thereof,

It is ordered, That:

1. The agreements listed below are approved:

CAB No. 10973–A58
CAB No. 10973–A59
CAB No. 10973–A76
CAB No. 10973–A77
CAB No. 19726
CAB No. 19727
CAB No. 19846
CAB No. 19847
CAB No. 19849

provided that the carriers file with the Board[4] copies of all written opinions and reports submitted by their enforcement office, and decisions of the arbitrators thereon. In addition, the carriers shall file a quarterly report with the Board listing all formal and informal actions related to enforceable freight agreements or resolutions, and all such reports shall contain full disclosure of all pertinent details of the practices or shipments involved, and the actions taken.

2. Final action on disapproval of agreement CAB No. 19848 is deferred for 60 days; and

3. The protests of the Society of American Florists, and Harvey Aluminum, Inc., concerning agreements CAB Nos. 19727 and 19847 are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69–631; Filed, Jan. 16, 1969; 8:48 a.m.]

[1] On behalf of Airlift International, Inc., American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., National Airlines, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

[2] The carriers' agreement does not preclude verbal confirmation of delivery when requested by the shipper.

[3] See Order E–14015, dated June 10, 1959.

[4] Copies of the carriers' reports shall be filed with the Directors of the Bureau of Economics and the Bureau of Enforcement.

[Docket No. 20606]

AIR WEST, INC.

Notice of Proposed Approval for Lease Transaction

Application of Air West, Inc. for approval under section 408 or an exemption under section 416 of the Federal Aviation Act of 1958, as amended, with respect to an aircraft lease transaction, Docket 20606.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., January 10, 1969.

[SEAL] A. M. ANDREWS,
Director, Bureau of Operating Rights.

Issued under delegated authority.

Application of Air West, Inc. for approval under section 408 or an exemption under section 416 of the Federal Aviation Act of 1958, as amended, with respect to an aircraft lease transaction, Docket No. 20606.

By application filed January 3, 1969 Air West, Inc. (Air West) requests approval under section 408 of the Federal Aviation Act of 1958, as amended, (the Act) or, in the alternative, an exemption from such section pursuant to section 416 of the Act with respect to the lease of two DC–9–31 aircraft (the aircraft) from the McDonnell-Douglas Finance Corporation (Finance).

Air West has agreed to lease the aircraft from Finance for a term of 12 years at a basic rent in an amount equal to a percentage of the lessor's cost.[1] Air West has also agreed to pay Finance an amount equal to 3.225 percent of the lessor cost as a security deposit, which sum shall be refunded at the termination of the lease. In addition, Air West has the option to purchase the aircraft at the expiration of the lease term at the then current fair market value.[2]

The instant transaction was originally filed by Air West under Part 299 of the Board's Economic Regulations. However, after consideration of a pre-existing debtor-creditor relationship, whereunder Finance holds notes of Air West amounting to approximately $3,600,000 representing McDonnell-Douglas participation in prior aircraft deliveries, it was concluded that the lease transaction did not qualify for the exemption provided for in Part 299 and that a

[1] Air West's payments to Finance are in advance quarterly installments pursuant to the following schedule:

Payments	*Percent of lessor's cost*
1 through 8	2.150 per quarter.
9 through 36	3.225 per quarter.
37 through 48	1.6125 per quarter.

The lessor's cost for each aircraft is $3,759,220.63.

[2] Applicants advise that the effective interest rate is approximately 4.47 percent and that the offer by Finance which resulted in the lease agreement was the most favorable of five such offers received by the carrier.

filing for approval under section 408 was necessary.[3]

No comments relative to the application have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the Attorney General not later than 1 day following such publication, both in accordance with section 408(b) of the Act.

Upon consideration of the foregoing, it is concluded that the transaction involves the lease of a substantial portion of the assets of a person engaged in a phase of aeronautics otherwise than as an air carrier. However, it is further found that the transaction does not affect the control of a direct air carrier, does not result in creating a monopoly and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing and it is concluded that the public interest does not require a hearing. The transaction is similar to others which have been approved by the Board and does not, essentially, present any new substantive issues to the Board.[4] It therefore appears that approval of the lease transaction would not be inconsistent with the public interest.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13, it is found that the foregoing transaction should be approved under section 408(b) of the Act, without a hearing.

Accordingly, it is ordered:

1. That the transaction described herein involving Air West and Finance be and it hereby is approved; and

2. That this action shall not be deemed a determination for rate-making purposes of the reasonableness of the transaction.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 69-630; Filed, Jan. 16, 1969; 8:47 a.m.]

[Docket No. 20594; Order 69-1-57]

SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

Order To Show Cause Regarding Service Mail Rate

Issued under delegated authority on January 14, 1969.

The Postmaster General filed a notice of intent December 26, 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 54.77 cents per great circle aircraft mile for the transportation of mail by aircraft between Minneapolis/St. Paul (AMF Twin Cities) and Oshkosh, Wis. via Wausau and Green Bay, Wis.

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 Beechcraft, Model Super 18, 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:

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, shall be 54.77 cents per great circle aircraft mile between Minneapolis/St. Paul (AMF Twin Cities) and Oshkosh, Wis. via Wausau and Green Bay, Wis.

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, North Central 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 Sedalia, Marshall, Boonville Stage Line, 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 Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General and North Central Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 69-632; Filed, Jan. 16, 1969; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 422]

COMMON CARRIER SERVICES INFORMATION[1]

Domestic Public Radio Services Applications Accepted for Filing[2]

JANUARY 13, 1969.

Pursuant to §§ 1.227(b)(3) and 21.26(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will

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[3] It has been decided not to enforce the doctrine expressed in Sherman Control and Interlocking Relationships, 15 CAB 876 (1952) to the extent applicable, and to consider the application on its merits.

[4] See Order E-24078, August 12, 1966.

[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 regraded 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] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

3697-C2-AL-(2)-69—New State Telephone Co.; Consent to assignment of license from New State Telephone Co., Assignor, to: Allied Telephone Co. of Oklahoma, Inc., assignee. Stations: KLB508, Burns Flat, Okla., KLB684, Cold Springs, Okla.

3845-C2-P-69—AAA Anserphone and Doctors Exchange of Hattiesburg; (New); C.P. for a new two-way station to be located at 4 miles southwest of Hattiesburg, Miss., to operate on base frequency 152.18 MHz.

3846-C2-P-69—Tracy Mobilphone; (KMM630); C.P. to change the antenna system operating on frequency 152.18 MHz at station located atop mountain peak, 10 miles north of Livermore, Calif.

4014-C2-AL-69—The Airpage Co.; (KGC402); Consent to assignment of license from The Airpage Co., Assignor, to: Modern Communications Corp., Assignee.

4076-C2-P-69—Kidd's Communications, Inc.; (KMA257); C.P. to replace the control transmitter operating on frequency 72.64 MHz at location No. 2: 215 East 18th Street, Bakersfield, Calif., and repeater transmitter operating on frequency 75.72 MHz at location No. 6: LaCima, Kettleman Hills, 3.5 miles east of Avenal, Calif.

4019-C2-P-69—South Central Bell Telephone Co.; (KKI448); C.P. to replace base transmitter on 152.75 MHz at location No. 1: 1.7 miles north-northeast of Sweetlake, La., and replace base transmitter operating on 152.57 MHz at location No. 2: Along Highway No. 384, 9.5 miles south-southwest of Lake Charles, La.

4078-C2-P-69—T. D. Miller III; (New); C.P. for a new one-way station to be located at Cane Creek Mountain, 3.75 miles north of Snow Camp, N.C., to operate on frequency 152.24 MHz.

4079-C2-P-69—Atlas Security Service, Inc.; (KFL946); C.P. to replace transmitter operating on base frequency 152.06 MHz at station located at 833 East Elm Street, Springfield, Mo.

4083-C2-ML-69—Hager City Telephone Co.; (KJU796); Modification of license to change frequency from 152.72 MHz to 152.51 MHz all other terms to remain same as the existing license.

4084-C2-P-69—Quincy Telephone Co.; (KIY727); C.P. to replace the base transmitter operating on frequency 152.510 MHz at station located at Roberts and Clark Streets, Quincy, Fla.

4085-C2-P-69—Hanford Radiotelephone Service; (New); C.P. for a new two-way station to be located at 1.75 miles northwest of Squaw Valley, Calif., at Bear Mountain, to operate on frequency 454.075 MHz.

4086-C2-P-69—Columbus Radio Paging Co.; (New); C.P. for a new one-way station to be located at 88 East Broad Street, Columbus, Ohio, to operate on frequency 152.24 MHz.

4094-C2-AL-69—Mobilfone Communications, Inc.; (KLB498); Consent to assignment of license from Mobilfone Communications, Inc., Assignor to Waco Communications, Inc., Assignee.

4100-C2-P-69—Airsignal International, Inc.; (New); C.P. for a new one-way station to operate on frequencies 152.24 and 158.70 MHz at location No. 1: 101 North Tampa Street, Tampa, Fla., and location No. 2: 6501 49th Street North, Pinellas Park, Fla.

MAJOR AMENDMENT

2201-C2-69—FWS Radio, Inc.; (New); Correction: To add location No. 2: 4905 Bridge Street, Fort Worth, Tex., operating on frequency 152.24 MHz. All other terms same as reported on public notices dated Oct. 28, 1968, Report No. 411 and Jan. 6, 1969, Report No. 421.

CORRECTION

3627-C2-MP-69—South Central Bell Telephone Co.; (KGI276); Correct frequency to read 152.51 MHz instead 152.21 MHz. All other particulars same as reported on public notice dated Dec. 30, 1968, Report No. 420.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

3872-C1-P-69—Northwestern Bell Telephone Co.; (KBI49); C.P. to add 6137.9 and 6078.6 MHz toward Galena, Ill., at station located at 2221 Carter Road, Dubuque, Iowa.

3917-C1-MP-69—Northwestern Bell Telephone Co.; (KYO42); Modification of C.P. to change frequency from 6360.3 MHz to 6271.4 MHz. All other terms to remain same as existing C.P.

4080-C1-P-69—Illinois Bell Telephone Co.; (KSN61); C.P. to add 3830 MHz toward Odell, Ill., at station located at 2.8 miles east-southeast of Norway, Ill.

4081-C1-P-69—Illinois Bell Telephone Co.; (KSO77); C.P. to add 3790 MHz toward Saybrook, Ill., at station located at 3.5 miles west-northwest of Odell, Ill.

4082-C1-P-69—Illinois Bell Telephone Co.; (KSO41); C.P. to add 3830 MHz toward Champaign, Ill., at station located at 3.7 miles northwest of Saybrook, Ill.

4087-C1-MP-69—South Central Bell Telephone Co.; (KLP20); Modification of C.P. to change frequency from 6264.0 MHz to 6323.3 MHz toward Glendora, Miss., at station located at 201 East George Street, Greenwood, Miss.

4088-C1-MP-69—South Central Bell Telephone Co.; (KLO99); Modification of C.P. to change frequency from 6011.9 MHz to 6071.2 MHz toward Greenwood, Miss., at station located at 1.2 miles west-northwest of Glendora, Miss.

4089-C1-P-69—Cameron Telephone Co.; (KKT50); C.P. to add 6197.2 and 6315.9 MHz toward Lake Charles, La., at station located at intersection of State Highway No. 27 and Davison Chemical Company Road, Carlyss, La.

4090-C1-P-69—American Telephone & Telegraph Co.; (KEM32); C.P. to add 3950 MHz toward Port Republic, N.J., at station located at 1609 Pacific Avenue, Atlantic City, N.J.

4091-C1-P-69—American Telephone & Telegraph Co.; (KEM33); C.P. to add 3990 MHz toward Atlantic City, N.J., and Jenkins, N.J., at station located at 1.7 miles northwest of Port Republic, N.J.

4092-C1-P-69—American Telephone & Telegraph Co.; (KEM28); C.P. to add 3950 MHz toward Port Republic and Cedar Brook, N.J., at station located at 0.7 mile north of Jenkins, N.J.

4093-C1-P-69—American Telephone & Telegraph Co.; (KEM29); C.P. to add 3990 MHz toward Jenkins, N.J., at station located at 2.1 miles north-northwest of Cedar Brook, N.J.

4099-C1-P-69—Illinois Bell Telephone Co.; (KSN57); C.P. to add 6301.0 and 10775 MHz toward Eola, Ill., at station located at 1.2 miles south of intersection of U.S. Highway No. 30 and Route No. 23, De Kalb, Ill.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

4095-C1-MP-69—Western Microwave, Inc.; (KPJ36); Modification of C.P. to change frequencies from 6060 and 6160 to 6152.8 and 6182 MHz. All other terms same as the existing C.P.

4096-C1-P-69—Western Microwave, Inc.; (KPS68); C.P. to change frequency from 6210 to 6212.0 MHz toward Butte and Anaconda, Mont., at station located at 3 miles east of Butte, Mont.

4097-C1-MP-69—Western Microwave, Inc.; (KPJ37); Modification of C.P. to change frequency from 6210 to 6212.0 MHz. All other terms same as the existing C.P.

4098-C1-MP-69—Western Microwave, Inc.; (KPY90); Modification of C.P. to change frequency from 6020 to 6212.0 MHz. All other terms same as the existing C.P.

MAJOR AMENDMENT

1632-C1-P-69—New York Penn Microwave Corp.; (KZA85); To change station location from lat. 41°14'47" N., long. 78°38'51" W. to lat. 41°14'56" N., long. 78°38'33" W. Other particulars are as reported in public notice dated Sept. 30, 1968.

[F.R. Doc. 69-650; Filed, Jan. 16, 1969; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

AMERICAN MAIL LINE LTD. AND EVERETT ORIENT LINE, INC.

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, 1405 I Street NW., Room 1202; or may inspect agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. W. R. Purnell, District Manager, American Mail Line Ltd., 601 California Street, Suite 610, San Francisco, Calif. 94108.

Agreement No. 9766 between American Mail Line Ltd. and Everett Orient Line, Inc. establishes a through billing arrangement from ports of call of American Mail Line in Alaska, Washington, and Oregon to ports of call of Everett Orient Line in Indonesia with transshipment at Hong Kong or Japan in accordance with the terms and conditions set forth in the Agreement.

Dated: January 14, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-657; Filed, Jan. 16, 1969; 8:50 a.m.]

BLUE STAR LINE LTD. 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, 1405 I Street NW., Room 1202; or may inspect agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Blue Star Line Ltd., Port Line Ltd., and Ellerman Lines Ltd.:

Notice of agreement filed for approval by:

John Mahoney, Esq., Casey, Lane & Mittendorf, 26 Broadway, New York, N.Y. 10004.

Agreement No. 9767 establishes a cooperative working arrangement between Blue Star Line Ltd., Port Line Ltd., and Ellerman Lines Ltd., which would permit the parties to inaugurate a containership service in the trade between the United States and Australasia in late 1970 or early 1971. In order to accomplish this objective the parties have agreed (1) to provide Associated Container Lines (Australia) Ltd., a corporation of the parties registered in London, with funds for the construction of containerships, containers, related equipment and other facilities necessary to a container service; (2) to establish a branch office of Associated Container Lines (Australia) Ltd., in the United States to manage and operate the Australasia/United States container service; and (3) to coordinate the withdrawal of their conventional break bulk vessels from the trade.

Dated: January 14, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-658; Filed, Jan. 16, 1969; 8:50 a.m.]

[Independent Ocean Freight Forwarder License No. 1152]

CHARLES C. RUDD CARGO EXPEDITER

Order of Revocation

By letter dated December 16, 1968, Charles C. Rudd doing business as Charles C. Rudd Cargo Expediter, Post Office Box 13030, Port Everglades, Fla. 33316, advised the Commission that its firm merged with Thomas E. Flynn & Co., FMC License No. 750, and has voluntarily requested the cancellation of its Independent Ocean Freight Forwarder License No. 1152.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in manual of orders, Commission Order 201.1, section 6.03.

It is ordered, That the Independent Ocean Freight Forwarder License No. 1152 of Charles C. Rudd doing business as Charles C. Rudd Cargo Expediter be and is hereby revoked effective January 2, 1969.

It is further ordered, That this cancellation is without prejudice to reapplication at a later date.

It is further ordered, That the Independent Ocean Freight Forwarder License No. 1152 be returned to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon the licensee.

LEROY F. FULLER,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 69-659; Filed, Jan. 16, 1969; 8:50 a.m.]

[Independent Ocean Freight Forwarder License No. 231]

P. O. SORENSEN CO.

Order of Revocation

On November 13, 1968, the St. Paul Fire and Marine Insurance Co. notified the Commission that the Independent Ocean Freight Forwarder Surety Bond No. 431FH8913, underwritten in behalf of P. O. Sorensen doing business as P. O. Sorensen Co., One Broadway, New York, New York, would be canceled effective December 12, 1968.

P. O. Sorensen Co. was notified that unless a new surety bond was submitted to the Commission, its Independent Ocean Freight Forwarder License No. 231 would be canceled effective December 12, 1968, pursuant to General Order 4, Amendment 12 (46 CFR 510.9).

P. O. Sorensen Co. has failed to submit a valid surety bond in compliance with the above rule.

It is ordered, That the Independent Ocean Freight Forwarder License No. 231 is revoked effective December 12, 1968; and

It is further ordered, That the Independent Ocean Freight Forwarder License No. 231 be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on the licensee.

LEROY F. FULLER,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 69-660; Filed, Jan. 16, 1969; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Project No. 2144]

CITY OF SEATTLE

Notice of Land Withdrawal

JANUARY 13, 1969.

City of Seattle, licensee for constructed Project No. 2144 filed on January 19, 1968, and supplemented April 5 and September 25, 1968, an application for approval of revised maps, Exhibit K pursuant to Articles 37 and 50 of its license.

Conformable to the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in power Project No. 2144 and are from the date of filing of said application, reserved from entry, location

or other disposition under the laws of the United States until otherwise directed by this Commission or by the Congress.

WILLAMETTE MERIDIAN, WASHINGTON

All portions of the following described lands lying within the boundary of Project No. 2144, as constructed (both horizontal and vertical measurement) and delimited upon maps, Exhibit K sheet 1—revised, sheets 2 to 8, sheet 9—revised (FPC Nos. 2144–72 to –80 respectively):

T. 39 N., R. 43 E.,
Sec. 2, lots 2, 3, 4, 5, 6, 7, and 8;
Sec. 3, lots 5 and 6;
Sec. 10, lots 1, 3, 4, 5, 6, 7, and 8;
Sec. 11, NW¼NW¼;
Sec. 15, lots 1, 2, 3, 4, 5, 6, N½NW¼NW¼NE¼, Mineral Survey No. 1282 (*Big Chief, Victor and Charlotte Lodes*), Mineral Survey No. 1240 (*Riverside Bluff Lode*) (Riverside Bluff Lode-unpatented) (*Sunday Lode*) (Sunday Lode-unpatented);
Sec. 16, lots 1, 2, SE¼SE¼;
Sec. 21, lots 1 and 2;
Sec. 22, lots 1 and 2;
Sec. 28, lots 8 and 9, Block 5 plat of Town of Metaline.
T. 40 N., R. 43 E.,
Sec. 3, lots 4 and 7;
Sec. 10, lots 1, 2, 5, 6, SE¼NW¼, SE¼SW¼ (acquired);
Sec. 11, lots 1, 2, 3, SW¼NW¼NW¼;
Sec. 14, lots 1, 3, 4, 6, 7, NE¼NW¼, SW¼SW¼;
Sec. 23, lots 1, 2, 3, 4, 6, 7, and 8;
Sec. 26, lots 2, 3, 4, 5, 8, 9, and 11;
Sec. 35, lots 1, 2, 3, 4, 5, 6, 7, 8, SE¼NE¼, NE¼SE¼, NW¼SW¼.

NOTE: Lands in italic are patented subject to the conditions and limitations of sec. 24, Act of June 10, 1920 (approximately 22.94 acres).

The total area of U.S. lands reserved pursuant to the filing of the subject application and supplement is 938.59 acres which have been variously withdrawn for power purposes in connection with Power Site Reserve Nos. 72, 384; Power Site Classification Nos. 109, 328, 408; earlier Project Nos. 44, 1393, 2144 (this project) or 2250. Of the total area reserved approximately 609.24 acres are within the Colville National Forest.

Copies of the aforementioned map exhibits (FPC Nos. 2144–72 through –80) have been transmitted to the Geological Survey, Bureau of Land Management, Forest Service and the Office of the Chief of Engineers.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69–594; Filed, Jan. 16, 1969; 8:46 a.m.]

[Docket No. RI69–469]

JOSEPH S. MORRIS ET AL.

Order Accepting Contract Amendment, Providing for Hearing on and Suspension of Proposed Change in Rate, Permitting Withdrawal of Rate Supplement and Terminating Proceeding

JANUARY 10, 1969.

On December 13, 1968, Joseph S. Morris, *et al.*, (Morris) [1] tendered for filing a proposed change in his presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is designated as follows:

Description: (1) Contract Agreement,[2] dated October 3, 1968. (2) Notice of change, dated December 11, 1968.
Purchaser and producing area: United Gas Pipeline Co. (Burnell Field, Bee and Karnes Counties, Tex.) (RR. District No. 2).
Rate schedule designation: (1) Supplement No. 10 to Morris' FPC Gas Rate Schedule No. 4. (2) Supplement No. 11 to Morris' FPC Gas Rate Schedule No. 4.
Effective date: (1) and (2) January 13, 1969.[3]
Amount of Annual Increase: (2) $456.
Effective rate: 14 cents per Mcf.[4]
Proposed rate: 16 cents per Mcf.[5][6]
Pressure base: 14.65 p.s.i.a.

Morris requests that his proposed rate increase be permitted to become effective on October 1, 1968. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Morris' rate filing and such request is denied.

Concurrently with the filing of his rate increase, Morris submitted a contract agreement dated October 3, 1968, designated as Supplement No. 10 to Morris' FPC Gas Rate Schedule No. 4, which provides the basis for his proposed rate increase. We believe that it would be in the public interest to accept for filing Morris' proposed contract amendment to become effective on January 13, 1969, the expiration date of the statutory notice, but not the proposed rate contained therein which is suspended as hereinafter ordered.

A prior increase, from 14 cents to 15.485 cents per Mcf, designated as Supplement No. 9 to Morris' FPC Gas Rate Schedule No. 4, was suspended in Docket No. RI66–124 until April 1, 1966, and thereafter until made effective in the manner prescribed by the Natural Gas Act. The increased rate has not been made effective pursuant to section 4(e) of the Natural Gas Act and no monies have been collected subject to refund under the rate schedule involved. Morris has requested that the rate proceeding in Docket No. RI66–124 be terminated and the related rate filing be permitted to be withdrawn. Since the suspended 15.485 cents rate contained in the aforementioned supplement has not been made effective pursuant to section 4(e) of the Natural Gas Act and no monies have been collected subject to refund under the rate schedule involved, we believe that it would be in the public interest to grant Morris' request to withdraw Supplement No. 9 to his FPC Gas Rate Schedule No. 4 and to terminate the related suspension proceeding in Docket No. RI66–124.

Morris' proposed increased rate and charge exceeds the area increased rate ceiling of 14 cents per Mcf for Texas Railroad District No. 2 as announced in the Commission's statement of general policy No. 61–1, as amended (18 CFR 2.56).

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists for permitting the withdrawal of Supplement No. 9 to Morris' FPC Gas Rate Schedule No. 4 and for terminating the related rate suspension proceeding in Docket No. RI66–124.

(2) Good cause has been shown for accepting for filing Morris' contract agreement, designated as Supplement No. 10 to Morris' FPC Gas Rate Schedule No. 4, and for permitting such supplement to become effective on January 13, 1969, the date of expiration of the statutory notice.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 11 to Morris' FPC Gas Rate Schedule No. 4 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Supplement No. 9 to Morris' FPC Gas Rate Schedule No. 4 is permitted to be withdrawn and the suspension proceeding in Docket No. RI66–124 is terminated.

(B) Morris' contract agreement, designated as Supplement No. 10 to his FPC Gas Rate Schedule No. 4, is accepted for filing and permitted to become effective on January 13, 1969.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 11 to Morris' FPC Gas Rate Schedule No. 4.

(D) Pending such hearing and decision thereon, Supplement No. 11 to Morris' FPC Gas Rate Schedule No. 4 is hereby suspended and the use thereof deferred until June 13, 1969, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(E) Neither the supplement suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or

[1] Address is: 820 Alamo National Building, San Antonio, Tex. 78205.

[2] Provides, among other things, for a renegotiated rate of 16 cents for the 5-year period commencing Oct. 1, 1968, with 1 cent increases every 5 years thereafter; deletes redetermination provisions and provisions for certain taxes; provides for downward B.t.u. adjustment and seller's right to file for any higher applicable area rate established by the Commission.

[3] The stated effective date is the first day after expiration of the statutory notice.

[4] Increase to 15.485 cents suspended in Docket No. RI166–124 but has not been made effective. Seller requests withdrawal of such increase and termination of the related suspension proceeding.

[5] Renegotiated rate increase.

[6] Subject to a downward B.t.u. adjustment.

until the period of suspension has expired, unless otherwise ordered by the Commission.

(F) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 26, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-593; Filed, Jan. 16, 1969; 8:45 a.m.]

[Docket No. RI69-468]

TENNECO OIL CO.

Order Providing for Hearing On and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

JANUARY 10, 1969.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Chapter I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 26, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-468	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001, Attention: Joseph Tamasy, Esq.	[1] 164	4	El Paso Natural Gas Co. (Ignacio Blanco Field, La Platta County, Colo.).	$288	12-13-68	[2] 1-13-69	[4] 1-14-69	[7] [8] 14.0	[3] [7] 15.0	

[1] Contract dated after Sept. 28, 1960, the date of issuance of statement of general policy No. 61-1.
[2] The stated effective date is the first day after expiration of the statutory notice.
[3] The suspension period is limited to 1 day.
[4] Periodic rate increase.
[5] Pressure base is 15.025 p.s.i.a.
[7] Includes 1 cent per Mcf minimum guarantee for liquids.
[8] Rate suspended in Docket No. RI64-453.

Tenneco Oil Co. (Tenneco) requests that its proposed rate increase be permitted to become effective as of January 1, 1969. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Tenneco's rate filing and such request is denied.

The contract related to the rate filing of Tenneco was executed subsequent to September 28, 1960, the date of issuance of the Commission's Statement of General Policy No. 61-1, as amended, and the proposed increased rate of 15 cents per Mcf exceeds the area increased rate ceiling of 13 cents per Mcf for Colorado, but does not exceed the initial service ceiling established for the area involved. We believe, in this situation, Tenneco's proposed rate filing should be suspended for 1 day from January 13, 1969, the date of expiration of the statutory notice.

[F.R. Doc. 69-595; Filed, Jan. 16, 1969; 8:45 a.m.]

[Docket No. RI64-484]

TENNECO OIL CO. AND CONTINENTAL OIL CO.

Order Accepting Decreased Rate Filings Subject to Refund in Existing Rate Suspension Proceeding

JANUARY 10, 1969.

Tenneco Oil Co. (Tenneco), on December 20, 1968, and Continental Oil Co. (Continental), on December 13, 1968, submitted for filing proposed rate decreases, designated as Supplement No. 7 to Tenneco's FPC Gas Rate Schedule No. 161 and Supplement No. 5 to Continental's FPC Gas Rate Schedule No. 277, which are due to the incapability of Respondents' wells to produce in the high pressure system of the buyer, El Paso Natural Gas Co. (El Paso); therefore, the gas will now be taken into a low pressure system at a 1 cent per Mcf reduced rate. The proposed decreased rate filings are set forth in Appendix "A" hereof.

Although the reduced rates do not exceed the area increased ceiling rate of 13 cents per Mcf for the San Juan Basin Area as announced in the Commission's statement of general policy No. 61-1, as amended, they do include partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax. Since El Paso is expected to follow its customary practice of protesting such tax reimbursement, we conclude that the proposed rate decreases should be accepted for filing subject to the existing rate proceeding in Docket No. RI64-484, which deals with the tax reimbursement issue.

The Commission finds:

Good cause exists for accepting for filing Tenneco and Continental's proposed rate decreases, designated as Supplement No. 7 to Tenneco's FPC Gas Rate Schedule No. 161 and Supplement No. 5 to Continental's FPC Gas Rate Schedule No. 277, effective as of September 1, 1965, the proposed effective date, subject to the existing rate suspension proceeding in Docket No RI64-484.

The Commission orders: The proposed 12.2295 cents per Mcf rates contained in Supplement No. 7 to Tenneco's FPC Gas Rate Schedule No. 161 and Supplement No. 5 to Continental's FPC Gas Rate Schedule No. 277 are accepted for filing and permitted to become effective as of September 1, 1965, the proposed effective date, subject to the existing rate suspension proceeding in Docket No. RI64-484 and refund obligation related thereto.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual decrease	Date filing tendered	Effective date		Cents per Mcf: Rate in effect	Cents per Mcf: Proposed decreased rate	Rate in effect subject to refund in dockets Nos.
RI64-484	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001, Attention: Joseph Tamasy, Esq.	161	[1] 7	El Paso Natural Gas Co., (Huerfano Unit, San Juan County, N. Mex.) (San Juan Basin Area).	$1,878	12-20-68	[2] 9-1-65	Accepted subject to refund.	[3] [4] 14.2486	[3] [4] 12.2295	RI64-484.
RI64-484	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	277	[1] 5	....do.....	948	12-13-68	[2] 9-1-65	.....do.....	[3] [4] 14.2486	[3] [4] 12.2295	RI64-484.

[1] Filing pertains only to gas delivered into low pressure line by agreement dated Nov. 11, 1963 (Supplement No. 6).
[2] The stated effective date is the effective date requested by Respondent.
[3] Rate reduction due to incapability of certain wells to produce into buyer's high pressure system; therefore they must produce into buyer's low pressure system with a corresponding 1-cent per Mcf reduction in rate and deletion of the 1-cent per Mcf minimum guarantee for liquids.
[4] Pressure base is 15.025 p.s.i.a.
[5] Rate includes partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax.
[6] Rate includes 1-cent minimum guarantee for liquids.

[F.R. Doc. 69-596; Filed, Jan. 16, 1969; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive of October 8, 1968

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on October 8, 1968.[1]

The information reviewed at this meeting suggests that over-all economic expansion has moderated, although less than projected, from its very rapid pace earlier in the year, but upward pressures on prices and costs are persisting. Most market interest rates have changed little on balance in recent weeks. Bank credit and time and savings deposits expanded rapidly this summer, but the money supply has shown no net growth since July after rising substantially for several months. The earlier improvement in the U.S. balance of payments was not maintained in August and September, according to preliminary indications, and the foreign trade balance and underlying payments position continue to be matters of serious concern. In this situation, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to sustainable economic growth, continued resistance to inflationary pressures, and attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, System open market operations until the next meeting of the Committee shall be conducted with a view to maintaining about the prevailing conditions in money and short-term credit markets; provided, however, that operations shall be modified, to the extent permitted by the forthcoming Treasury refunding operation, if bank credit expansion appears to be significantly exceeding current projections.

Dated at Washington, D.C., the 2d day of January 1969.

By order of the Federal Open Market Committee.

ARTHUR L. BROIDA, *Assistant Secretary.*

[F.R. Doc. 69-609; Filed, Jan. 16, 1969; 8:46 a.m.]

[1] The Record of Policy Actions of the Committee for the meeting of October 8, 1968, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FEDERAL OPEN MARKET COMMITTEE

Authorization for System Foreign Currency Operations

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below paragraph 2 of the Committee's Authorization for System Foreign Currency Operations, as amended by action taken at its meeting on March 14, 1968, that became effective on October 8, 1968.

2. The Federal Open Market Committee directs the Federal Reserve Bank of New York to maintain reciprocal currency arrangements ("swap" arrangements) for System Open Market Account for periods up to a maximum of 12 months with the following foreign banks, which are among those designated by the Board of Governors of the Federal Reserve System under section 214.5 of Regulation N, relations with foreign banks and bankers, and with the approval of the Committee to renew such arrangements on maturity:

Foreign bank	*Amount of arrangement (millions of dollars equivalent)*
Austrian National Bank	100
National Bank of Belgium	225
Bank of Canada	1,000
National Bank of Denmark	100
Bank of England	2,000
Bank of France	700
German Federal Bank	1,000
Bank of Italy	1,000
Bank of Japan	1,000
Bank of Mexico	130
Netherlands Bank	400
Bank of Norway	100
Bank of Sweden	250
Swiss National Bank	600
Bank for International Settlements:	
System drawings in Swiss francs	600
System drawings in authorized European currencies other than Swiss francs	1,000

(NOTE.—For remainder of paragraph 1 of the authorization, see 33 F.R. 3665 (except for paragraph 1B(3), which appears at 33 F.R. 12344, and for paragraph 1C(1), which appears at 33 F.R. 15464); for paragraph 3, see 33 F.R. 8470; and for paragraphs 4 through 10, see 32 F.R. 9583.)

Dated at Washington, D.C., the 2d day of January 1969.

By order of the Federal Open Market Committee.

ARTHUR L. BROIDA, *Assistant Secretary.*

[F.R. Doc. 69-610; Filed, Jan. 16, 1969; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 5-B, Rev. 1]

ASSOCIATE ADMINISTRATOR FOR PROCUREMENT AND MANAGEMENT ASSISTANCE

Delegation of Authority To Provide Financial Assistance

Delegation of authority No. 5-B (33 F.R. 8624) is hereby revised to read as follows:

Pursuant to the authority vested in the Administrator of the Small Business Administration by sections 402(c) and 602(d) of the Economic Opportunity Act of 1964, as amended, the following authority under section 406 of the Economic Opportunity Act of 1964, as amended, is hereby delegated to the Associate Administrator for Procurement and Management Assistance:

To execute grants, agreements, and contracts providing financial assistance to public or private organizations to pay all or part of the costs of the following kinds of projects designed to provide technical and management assistance to individuals or enterprises eligible for assistance under section 402 of the Economic Opportunity Act of 1964, as amended, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals:

a. Planning and research, including feasibility studies and market research;

b. The identification and development of new business opportunities;

c. The establishment and strengthening of business service agencies, including trade associations and cooperatives;

d. The encouragement of the placement of subcontracts by major businesses with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns;

e. The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

Effective date: January 10, 1969.

HOWARD J. SAMUELS,
Administrator.

[F.R. Doc. 69-613; Filed, Jan. 16, 1969; 8:46 a.m.]

[Delegation of Authority No. 8]

ASSISTANT ADMINISTRATOR FOR MINORITY ENTREPRENEURSHIP

Delegation of Authority To Provide Financial Assistance

Pursuant to the authority vested in the Administrator of the Small Business Administration by sections 402(c) and 602(d) of the Economic Opportunity Act of 1964, as amended, the following authority under section 406 of the Economic Opportunity Act of 1964, as amended, is hereby delegated to the Assistant Administrator for Minority Entrepreneurship:

To execute grants, agreements, and contracts providing financial assistance to public or private organizations to pay all or part of the costs of technical and management assistance projects designed to furnish centralized services with regard to public services and government programs, including programs authorized under section 402 of the Economic Opportunity Act of 1964, as amended, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals. This authority may be exercised by any person designated as Acting Assistant Administrator for Minority Entrepreneurship.

Effective date: January 10, 1969.

HOWARD J. SAMUELS,
Administrator.

[F.R. Doc. 69-614; Filed, Jan. 16, 1969; 8:46 a.m.]

[License No. 12/12-0147]

W.F.I. CO.

Notice of Issuance of Small Business Investment Company License

On October 31, 1968, a notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (33 F.R. 16046) stating that an application had been filed with the Small Business Administration (SBA) pursuant to section 107.102 of the Regulations Governing Small Business Investment Companies (13 CFR Part 107, 33 F.R. 326) for a license as a small business investment company by W.F.I. Co., 464 California Street, San Francisco, Calif. 94120.

Interested parties were given to the close of business November 5, 1968, to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and facts with regard thereto, SBA has issued License No. 12/12-0147 to W.F.I. Co. to operate as a small business investment company.

The license was issued in Washington, D.C. on January 6, 1969.

For the Small Business Administration.

JAMES THOMAS PHELAN,
Acting Associate Administrator for Investment.

[F.R. Doc. 69-615; Filed, Jan. 16, 1969; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[S.O. 994; I.C.C. Order No. 18]

PENN CENTRAL CO. AND SOO LINE RAILROAD CO.

Rerouting and Diversion of Traffic

In the opinion of R. D. Pfahler, Agent, the Penn Central Co. and the Soo Line Railroad Co. are unable to interchange traffic via car ferry between Mackinaw City, Mich., and St. Ignace, Mich., because of heavy ice accumulations.

It is ordered, That:

(a) Rerouting traffic: The Penn Central Co. and the Soo Line Railroad Co. being unable to interchange traffic via car ferry between Mackinaw City, Mich., and St. Ignace, Mich., because of heavy ice accumulations, the Penn Central Co. and the Soo Line Railroad Co. are hereby authorized to reroute or divert such traffic over any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 11 a.m., January 13, 1969.

(g) Expiration date: This order shall expire at 11:59 p.m., January 31, 1969, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as Agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 13, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 69-623; Filed, Jan. 16, 1969; 8:47 a.m.]

[Notice 761]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 13, 1968.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 59856 (Sub-No. 30 TA) (Clarification), filed November 25, 1968, published FEDERAL REGISTER, issue of December 10, 1968, and republished as corrected this issue. Applicant: SALT CREEK FREIGHTWAYS, 408 Industrial Avenue, Post Office Box 1411, Casper, Wyo. 82601. Applicant's representative: Alvin J. Meiklejohn, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value and except livestock, classes A and B explovises, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; (1) between Riverton, Wyo., and Jackson, Wyo., from Riverton over U.S. Highway 26 to Jackson, and return over the same route, serving all intermediate points between Jackson and Dubois, Wyo.; including Dubois, for 180 days. NOTE: Applicant states it intends to tack with its presently held authority and to interline at any authorized point. The purpose of this partial republication is to clarify part (1) above by indicating Dubois is intended also to be served as an intermediate point. The authority sought in part (2) and the rest of the applications remain as previously published.

No. MC 116254 (Sub-No. 88 TA), filed January 3, 1969. Applicant: CHEM-HAULERS, INC., Post Office Drawer M, Sheffield, Ala. 35660. Applicant's representative: William D. Biggs, Chem-Haulers, Inc., Post Office Drawer M, Sheffield, Ala. 35660. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda*, from Huntsville, Ala. to points in Georgia, Mississippi, and Tennessee, for 180 days. Supporting shipper: Stauffer Chemical Co., 299 Park Avenue, New York, N.Y. 10017, Attention: John R. Ural, Product Transportation Manager. Send protests to: B. R. McKenzie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 823, 2121 Building, Birmingham, Ala. 35203.

No. MC 116859 (Sub-No. 7 TA), filed January 7, 1969. Applicant: CLARK TRANSFER, INC., 829 North 29th Street, Philadelphia, Pa. 19130. Applicant's representative: James W. Patterson, Morgan, Lewis, and Bockius, 123 South Broad Street, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pretzels*, from Easton, Pa., to points in Connecticut, Delaware, Indiana, Iowa, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Vermont, West Virginia, and the District of Columbia, for 150 days. Supporting shipper: Snack Time Foods, Inc., Easton, Pa. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 117815 (Sub-No. 140 TA), filed January 3, 1969. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and groceries* from Des Moines, Iowa, to Grand Rapids and Plymouth, Mich., for 150 days. Supporting shipper: Tone Bros., 201 Southwest Second Street, Des Moines, Iowa 50309. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 123061 (Sub-No. 47 TA), filed January 3, 1969. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feeds and feed ingredients*, between Idaho, Oregon, and Washington, for 180 days. Supporting shipper: Albers Milling Co., General Offices, Carnation Building, Los Angeles, Calif. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 123392 (Sub-No. 12 TA), filed January 3, 1969. Applicant: JACK B. KELLEY, doing business as JACK B. KELLEY CO., 3901 Virginia, Amarillo, Tex. 79109. Applicant's representative: (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon monoxide*, in bulk, from Houston, Tex., and commercial zone, to Seattle, Wash., and commercial zone, for 150 days. Supporting shipper: J. C. Saele, Equipment Manager, Liquid Carbonic Corp., 135 South La Salle Street, Chicago, Ill. 60603. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 133373 TA, filed January 3, 1969. Applicant: A. G. BRIGGS, doing business as BRIGGS TRUCK LINE, Sidney, Iowa 51652. Applicant's representative: Robert Leonard, Sidney, Iowa 51652. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*; (1) from Falls City, Nebr.; and (2) from oil well storage tanks located in Richardson County, Nebr., and Brown and Nemaha Counties, Kans., to points in Missouri, Nebraska, Kansas, South Dakota, and Iowa over irregular routes, for 150 days. Supporting shipper: Carter-Waters, 2440 Pennway, Kansas City, Mo. 64108. Send protests to: K. P. Kohrs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 133377 (Sub-No. 1 TA), filed January 8, 1969. Applicant: COMMERCIAL SERVICES, INC., Post Office Box 117, Lakeside, Iowa 50588. Applicant's representative: William A. Landeau, Post Office Box 1634, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, packinghouse products and articles distributed by meat packinghouses* as set forth in sections A and C, *Descriptions in Motor Carrier Certificates 61 MCC 209 and 766*, from Fort Dodge, Iowa, to points in Iowa and Missouri, for 150 days. Supporting shipper: George A. Hormel & Co., Post Office Box 800, Austin, Minn. 55912. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51101.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-624; Filed, Jan. 16, 1969; 8:47 a.m.]

[Notice 277]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 14, 1969.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), 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–71008. By order of January 8, 1969, the Transfer Board approved the transfer to Francis E. Reaver, George W. Reaver and Franklin R. Reaver, doing business as Charles B. Reaver & Sons, Taneytown, Md., of Permit in No. MC–124555, issued August 17, 1965, to Francis E. Reaver, George W. Reaver, Mabel E. Reaver and Franklin R. Reaver, a partnership, doing business as Charles B. Reaver & Sons, Taneytown, Md., authorizing the transportation of lumber, between Flintstone, Md., and Moorefield, W. Va.; from Flintstone, Md., and Moorefield, W. Va., to Winchester, Va., and points in Connecticut, Delaware, Massachusetts, New Jersey, New York, and Pennsylvania; from Moorefield, W. Va., to points in Maryland; and from Winchester, Va., to Baltimore, Md. Donald E. Freeman, Post Office Box 806, Westminster, Md. 21157. Attorney for applicants.

No. MC–FC–71011. By order of January 8, 1969, the Transfer Board approved the transfer to Harold D. Patton, doing business as Patton's Transfer, 29 South Loudoun Street, Winchester, Va. 22601, of Certificate No. MC–8736, issued August 17, 1956, to Raymond Patton and Harold D. Patton, a partnership, doing business as Patton's Transfer, 29 South Loudoun Street, Winchester, Va. 22601, authorizing the transportation of: marble, granite, tombstones, soap, soap powder, soda, fruit containers, pipe, electric stoves washing machines, refrigerators, ironing machines, electrical appliances, household goods, and woolen mill machinery and equipment from, to, and between Winchester, Va., and points in Maryland, West Virginia, Virginia and the District of Columbia.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69–625; Filed, Jan. 16, 1969; 8:47 a.m.]

[Notice 278]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 15, 1969.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–71074. By application filed January 8, 1969, DEPENDABLE TRUCKING COMPANY, INC., 4527 Loma Vista, Los Angeles, Calif. 90058, seeks temporary authority to lease the operating rights of FREIGHT TRANSPORT COMPANY (CARLYLE MICHELMAN, Receiver), Suite 539, Douglas Building, 257 South Spring Street, Los Angeles, Calif. 90012, under section 210a(b). The transfer to DEPENDABLE TRUCKING COMPANY, INC., of the operating rights of FREIGHT TRANSPORT COMPANY (CARLYLE MICHELMAN, Receiver), is presently pending.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69–696; Filed, Jan. 16, 1969; 8:51 a.m.]

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FEDERAL REGISTER

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Friday, January 17, 1969 • Washington, D.C.

PART II

DEPARTMENT OF LABOR

•

Safety and Health Standards

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 50—Public Contracts, Department of Labor

PART 50–201—GENERAL REGULATIONS

PART 50–204—SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS

Safety and Health Standards

On November 6, 7, and 8, 1968, interested persons were afforded an opportunity to submit orally data, views, and arguments on proposals to revise Part 50–204 of Title 41, Code of Federal Regulations, and section 50–201.502 of that title published in the FEDERAL REGISTER on September 20, 1968 (33 F.R. 14258). Interested persons were also afforded an opportunity to submit written data, views, and arguments concerning the proposals.

After consideration of all such relevant matter as was presented by interested persons, Part 50–204 and § 50–201.502 are hereby revised as indicated below. The revised § 50–204.36 republishes the radiation standards for mining published in the FEDERAL REGISTER on December 28, 1968 (33 F.R. 19947), which are presently in effect.

The revisions shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

1. Part 50–204 is revised to read as follows:

Subpart A—Scope and Application

Subpart B—General Safety and Health Standards

Subpart C—Radiation Standards

Subpart D—Gases, Vapors, Fumes, Dusts, and Mists

Subpart E—Transportation Safety

Subpart F—Variations

AUTHORITY: The provisions of this Part 50–204 issued under secs. 1, 4, 49 Stat. 2036, 2038, as amended; 41 U.S.C. 35, 38; 5 U.S.C. 556.

Subpart A—Scope and Application

§ 50–204.1 Scope and Application.

(a) The Walsh-Healey Public Contracts Act requires that contracts entered into by any agency of the United States for the manufacture or furnishing of materials, supplies, articles, and equipment in any amount exceeding $10,000 must contain, among other provisions, a stipulation that "no part of such contract will be performed nor will any of the materials, supplies, articles, or equipment to be manufactured or furnished under said contract be manufactured or fabricated in any plants, factories, buildings, or surroundings or under working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of said contract" (sec. 1(e), 49 Stat. 2036, 41 U.S.C. 35(e)). This Part 50–204 expresses the Secretary of Labor's interpretation and application of this provision with regard to certain particular working conditions. In addition, §§ 50–204.27, 50–204.30, 50–204.31, 50–204.32, 50–204.33, and 50–204.36 contain requirements concerning the instruction of personnel, notification of incidents, reports of exposures, and maintenance and disclosure of records.

(b) Except in the conduct of formal enforcement proceedings provided for in Part 50–203 of this chapter and as otherwise provided in this part, every investigator conducting investigations and every officer of the Department of Labor determining whether there are or have been violations of the safety and health requirements of the Walsh-Healey Public Contracts Act and of any contract subject thereto, and whether a settlement of the resulting issues should be made without resort to administrative or court litigation, shall treat a failure to comply with, or violation of, any of the safety and health measures contained in this Part 50–204 as resulting in working conditions which are "unsanitary or hazardous or dangerous to the health and safety of employees" within the meaning of section 1(e) of the Act and the contract stipulation it requires. Every such investigator or every such officer shall have technical competence in safety, industrial hygiene, or both as may be appropriate, in the matters under investigation or consideration.

(c) Whenever any applicable standard in this Part 50–204 is relied upon by the Department of Labor in a formal enforcement proceeding under section 5 of the Walsh-Healey Public Contracts Act to support a finding of violation of the safety and health provisions of the Act and of a contract subject thereto, any respondent in the proceeding shall have the right and shall be afforded the opportunity to challenge the legality, fairness or propriety of any such reliance.

(d) The standards expressed in this Part 50–204 are for application to ordinary employment situations; compliance with them shall not relieve anyone from the obligation to provide protection for the health and safety of his employees in unusual employment situations. Neither do such standards purport to describe all of the working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees. Where such other working conditions may be found to be unsanitary or hazardous or dangerous to the health and safety of employees, professionally accepted safety and health practices will be used.

(e) Compliance with the standards expressed in this Part 50–204 is not intended, and shall not be deemed, to relieve anyone from any other obligation he may have to protect the health and safety of his employees, arising from sources other than the Walsh-Healey Public Contracts Act, such as State, local law or collective bargaining agreement.

(f) Whenever this part adopts by reference standards, specifications and codes published and available elsewhere, it only serves to adopt the substantive, technical portions of such standards, specifications and codes.

Subpart B—General Safety and Health Standards

§ 50–204.2 General safety and health standards; incorporation by reference.

(a) Every contractor shall protect the safety and health of his employees by complying with the applicable standards, specifications, and codes developed and published by the following organizations:

United States of America Standards Institute (American Standards Association).
National Fire Protection Association.
American Society of Mechanical Engineers.
American Society for Testing and Materials.
United States Governmental Agencies, including by way of illustration the following publications of the indicated agencies:

(1) U.S. Department of Labor

Title 29 (CFR):
Part 1501—Safety and Health Regulations for Ship Repairing.
Part 1502—Safety and Health Regulations for Shipbuilding.
Part 1503—Safety and Health Regulations for Shipbreaking.
Part 1504—Safety and Health Regulations for Longshoring.

(2) U.S. Department of Interior, Bureau of Mines

(i) Safety Code for Bituminous Coal and Lignite Mines of the United States, Part I—Underground Mines, and Part II—Strip Mines.
(ii) Safety Code for Anthracite Mines of the United States, Part I—Underground Mines, and Part II—Strip Mines.
(iii) Safety Standards for Surface Auger Mining.
(iv) Respiratory Protective Devices Approved by the Bureau of Mines, Information Circular 8281.

(3) U.S. Department of Transportation.

49 CFR 171–179 and 14 CFR 103 Hazardous materials regulation—Transportation of compressed gases.

(4) U.S. Department of Health, Education, and Welfare, Public Health Service.

(i) Publication No. 24—Manual of Individual Water Supply Systems.
(ii) Publication No. 526—Manual of Septic-Tank Practices.
(iii) Publication No. 546—The Vending of Food and Beverages.
(iv) Publication No. 934—Food Service Sanitation Manual.
(v) Publication No. 956—Drinking Water Standards.
(vi) Publication No. 1183—A Sanitary Standard for Manufactured Ice.
(vii) Publication No. 1518—Working with Silver Solder.

(5) U.S. Department of Defense.

(i) AFM 127–100—Air Force—Explosives Safety Manual.
(ii) AMCR 385–224—Army Material Command—AMC Safety Manual.
(iii) NAVORD OP5—Navy—Ammunition Ashore, Handling, Stowing, and Shipping.

(6) U.S. Department of Agriculture.

Respiratory Devices for Protection against Certain Pesticides—ARS 33–76–3.

(b) Information as to the standards, specifications, and codes applicable to a particular contract or invitation for bids and as to the places where such documents and those incorporated by reference in other sections of this part may be obtained and is available at the Office of the Director of the Bureau of Labor Standards, U.S. Department of Labor, Railway Labor Building, Washington, D.C. 20210, and at any of the following regional offices of the Bureau:

1. North Atlantic Region, 341 Ninth Avenue, Room 920, New York, N.Y. 10001 (Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont, New Jersey and Puerto Rico).
2. Middle Atlantic Region, 1110-A or B Federal Building, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201 (Delaware, District of Columbia, Maryland, North Carolina, Pennsylvania, Virginia, and West Virginia).
3. South Atlantic Region, 1371 Peachtree Street NE., Suite 723, Atlanta, Ga. 30309 (Alabama, Florida, Georgia, Mississippi, South Carolina and Tennessee).
4. Great Lakes Region, 848 Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604 (Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio and Wisconsin).
5. Mid-Western Region, 1906 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106 (Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming).
6. West Gulf Region, Room 601, Mayflower Building, 411 North Akard Street, Dallas, Tex. 75201 (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).
7. Pacific Region, 10353 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102 (Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington and Guam).

(c) In applying the safety and health standards referred to in paragraph (a) of this section the Secretary may add to, strengthen or otherwise modify any standards whenever he considers that the standards do not adequately protect the safety and health of employees as required by the Walsh-Healey Public Contracts Act.

§ 50–204.3 Material handling and storage.

(a) Where mechanical handling equipment is used, sufficient safe clearances shall be allowed for aisles, at loading docks, through doorways and wherever turns or passage must be made. Aisles and passageways shall be kept clear and in good repair, with no obstruction across or in aisles that could create a hazard. Permanent aisles and passageways shall be appropriately marked.

(b) Storage of material shall not create a hazard. Bags, containers, bundles, etc. stored in tiers shall be stacked, blocked, interlocked and limited in height so that they are stable and secure against sliding or collapse.

(c) Storage areas shall be kept free from accumulation of materials that constitute hazards from tripping, fire, explosion, or pest harborage. Vegetation control will be exercised when necessary.

(d) Proper drainage shall be provided.

(e) Clearance signs to warn off clearance limits shall be provided.

(f) Derail and/or bumper blocks shall be provided on spur railroad tracks where a rolling car could contact other cars being worked, enter a building, work or traffic area.

(g) Covers and/or guard rails shall be provided to protect personnel from the hazards of open pits, tanks, vats, ditches, etc.

§ 50–204.4 Tools and equipment.

Each employer shall be responsible for the safe condition of tools and equipment used by employees.

§ 50–204.5 Machine guarding.

(a) One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, in going nip points, rotating parts, flying chips and sparks. Examples of guarding methods are—Barrier guards, two hand tripping devices, electronic safety devices, etc.

(b) General requirements for machine guards. Guards shall be affixed to the machine where possible and secured elsewhere if for any reason attachment to the machine is not possible. The guard shall be such that it does not offer an accident hazard in itself.

(c) Point of Operation Guarding.

(1) Point of operation is the area on a machine where work is actually performed upon the material being processed.

(2) Where existing standards prepared by organizations listed in § 50–204.2 provide for point of operation guarding such standards shall prevail. Other types of machines for which there are no specific standards, and the operation exposes an employee to injury, the point of operation shall be guarded. The guarding device shall be so designed and constructed so as to prevent the operator from having any part of his body in the danger zone during the operating cycle.

(3) Special hand tools for placing and removing material shall be such as to permit easy handling of material without the operator placing a hand in the danger zone. Such tools shall not be in lieu of other guarding required by this section, but can only be used to supplement protection provided.

(4) The following are some of the machines which usually require point of operation guarding:

Guillotine cutters.
Shears.
Alligator shears.
Power presses.
Milling machines.
Power saws.
Jointers.
Portable power tools.
Forming rolls and calenders.

(d) Revolving drums, barrels and containers shall be guarded by an enclosure which is interlocked with the drive mechanism, so that the barrel, drum or container cannot revolve unless the guard enclosure is in place.

(e) When the periphery of the blades of a fan is less than seven (7) feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one half (½) inch.

(f) Machines designed for a fixed location shall be securely anchored to prevent walking or moving.

§ 50–204.6 Medical services and first aid.

(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matter of plant health.

(b) In the absence of an infirmary, clinic or hospital in near proximity to the work place which is used for the treatment of all injured employees, a person or persons shall be adequately trained to render first aid. First aid supplies approved by the consulting physician shall be readily available.

(c) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.

§ 50–204.7 Personal protective equipment.

Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in function of any part of the body through absorption, inhalation or physical contact. Where employees provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance and sanitation of such equipment. All personal protective equipment shall be of safe design and construction for the work to be performed.

§ 50–204.8 Use of compressed air.

Compressed air shall not be used for cleaning purposes except where reduced to less than 30 p.s.i. and then only with effective chip guarding and personal protective equipment.

§ 50–204.10 Occupational noise exposure.

(a) (1) The maximum permissible steady (or equivalent) noise level in the working environment shall not exceed 85 decibels as measured on the "A" scale of a standard sound level meter at slow response: *Provided, however,* That a maximum permissible steady (or equivalent) noise level in the working environment not exceeding 92 decibels "A" scale, slow response will be considered in compliance until January 1, 1971, if an effective hearing conservation program is established and carried out (i) to protect the hearing of employees, and (ii) to reduce the steady or equivalent noise level to 85 decibels, "A" scale, slow response.

(2) In all cases, feasible engineering controls must first be determined and implemented. Methods of control in the working environment include reducing the amount of noise produced at the source, reducing the amount transmitted through the air, and substituting quieter machinery or procedures. If the noise levels cannot be restricted within the maximum permissible (or equivalent) level by such methods, employees hearing shall be safeguarded by adequate personal protective equipment.

(b) If the variations in noise level involve maxima at the intervals or 1 second or less, it is to be considered steady. If the intervals are more than 1 second and the duration of the maxima are less than 1 second each, maximum is to be considered as 1 second. Where the noise is not steady the equivalent steady noise level is determined by the following procedure: The duration over 1 week of each clearly distinguishable sound level is located in Column 1 of Table I following paragraph (d) of this section and the partial noise exposure index is read at the intersection of this row with the appropriate sound level column. The partial noise exposure indices thus obtained are added arithmetically. The sum is the composite noise exposure index. The continuous noise exposure equivalent for the composite noise exposure index is then read from Table II following paragraph (d) of this section.

(c) In all cases where the noise levels regularly exceed 85 decibels "A" scale in such a manner as to be likely to cause any impairment to hearing (AA00 method [1]) to the employees, then annual audiometric examinations shall be performed on such exposed employees. Records of the audiometric examinations shall be available for examination by a qualified industrial hygienist, physician or safety engineer representing the U.S. Department of Labor. Positive action shall be taken to assure that audiometric examinations and noise level readings shall be done in accord with the applicable standards of the United States of America Standards Institute.

(d) (1) At the request of an employee (or former employee) a report of the employee's audiometric examinations as shown in records maintained by the employer pursuant to paragraph (c) of this section, shall be furnished to him. The report shall be in writing and contain the following statement:

This report is furnished to you under the provisions of the U.S. Department of Labor, Safety and Health Standards (41 CFR Part 50–204). You should preserve this report for future reference.

(2) The former employee's request should include appropriate identifying data, such as social security number and dates and locations of employment.

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[1] Guide for Conservation of Hearing in Noise, 1964:

Sub-Committee on Noise Research, American Academy of Ophthalmology and Otolaryngology, Callier Hearing & Speech Center, 3819 Maple Avenue, Dallas, Tex. 75219.

TABLE I.—Duration/Week

Hours	Minute	Sound level dBA																									
		80	82	84	86	88	90	92	94	96	98	100	102	104	106	108	110	112	114	116	118	120	122	124	126	128	130
	10									5	5	5	5	10	10	15	20	25	30	40	50	55	70	90	110	140	165
	12									5	5	5	10	10	15	20	25	30	35	45	55	70	85	105	135	165	200
	14									5	5	5	10	15	15	20	30	35	45	55	65	80	100	125	155	195	
	16								5	5	5	10	10	15	20	25	30	40	50	60	75	90	115	145	180		
	18								5	5	5	10	15	15	20	30	35	45	55	70	85	105	130	160	200		
	20								5	5	10	10	15	20	25	30	40	50	60	75	95	115	145	180			
	25								5	5	10	15	20	25	30	40	50	65	75	95	120	145	180				
	30							5	5	10	10	15	20	20	35	45	60	75	90	115	145	170					
	40							5	5	10	15	20	30	40	50	65	80	100	125	155	190						
	50							5	10	15	20	25	35	45	60	80	100	125	155	190							
1	60						5	5	10	15	25	30	45	55	75	95	120	150	185								
	70						5	5	10	20	25	35	50	65	85	110	140	175									
	80						5	5	15	20	30	40	55	75	100	125	160	200									
1½	90						5	10	15	25	35	45	65	85	110	140	180										
	100					5	5	10	15	25	40	55	70	95	125	155	200										
2	120					5	5	10	20	30	45	65	85	115	150	190											
2½						5	5	15	25	40	55	80	105	140	185												
3					5	5	10	15	30	45	70	95	130	170													
3½					5	5	10	20	35	55	80	110	150	200													
4				5	5	5	10	20	40	60	90	125	170														
5				5	5	10	15	25	50	75	115	160															
6				5	5	10	15	30	55	90	135	190															
7			5	5	5	10	20	40	65	105	160																
8			5	5	10	15	20	45	75	120	180																
9			5	5	10	15	25	50	85	135																	
10		5	5	5	10	15	25	55	95	150																	
12		5	5	5	10	20	30	65	115	180																	
14		5	5	10	15	20	35	75	135																		
16		5	5	10	15	25	40	85	150																		
18		5	5	10	20	30	45	95	170																		
20		5	10	15	20	30	50	105	190																		
25		5	10	15	25	40	65	135																			
30		10	10	20	30	45	75	160																			
35		10	15	20	35	55	90	190																			
40		10	15	25	40	65	100																				

TABLE II

Composite noise exposure index	*Equivalent continuous sound level dBA*
10	80
15	82
20	83
25	84
30	85
40	86
50	87
60	88
80	89
100	90
125	91
150	92
180	93
210	94
250	95

Subpart C—Radiation Standards

§ 50-204.20 Radiation—definitions.

As used in this subpart:

(a) "Radiation" includes alpha rays, beta rays, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, and other atomic particles; but such term does not include sound or radio waves, or visible light, or infrared or ultraviolet light.

(b) "Radioactive material" means any material which emits, by spontaneous nuclear disintegration, corpuscular or electromagnetic emanations.

(c) "Restricted area" means any area access to which is controlled by the employer for purposes of protection of individuals from exposure to radiation or radioactive materials.

(d) "Unrestricted area" means any area access to which is not controlled by the employer for purposes of protection of individuals from exposure to radiation or radioactive materials.

(e) "Dose" means the quantity of ionizing radiation absorbed, per unit of mass, by the body or by any portion of the body. When the provisions in this subpart specify a dose during a period of time, the dose is the total quantity of radiation absorbed, per unit of mass, by the body or by any portion of the body during such period of time. Several different units of dose are in current use. Definitions of units used in this subpart

are set forth in paragraphs (f) and (g) of this section.

(f) "Rad" means a measure of the dose of any ionizing radiation to body tissues in terms of the energy absorbed per unit of mass of the tissue. One rad is the dose corresponding to the absorption of 100 ergs per gram of tissue (1 millirad (mrad) = 0.001 rad).

(g) "Rem" means a measure of the dose of any ionizing radiation to body tissue in terms of its estimated biological effect relative to a dose of 1 roentgen (r) of X-rays (1 millirem (mrem) = 0.001 rem). The relation of the rem to other dose units depends upon the biological effect under consideration and upon the conditions for irradiation. Each of the following is considered to be equivalent to a dose of 1 rem:

(1) A dose of 1 rad due to X- or gamma radiation;

(2) A dose of 1 rad due to X-, gamma, or beta radiation;

(3) A dose of 0.1 rad due to neutrons or high energy protons;

(4) A dose of 0.05 rad due to particles heavier than protons and with sufficient energy to reach the lens of the eye;

(5) If it is more convenient to measure the neutron flux, or equivalent, than to determine the neutron dose in rads, as provided in subparagraph (3) of this paragraph, 1 rem of neutron radiation may, for purposes of the provisions in this subpart be assumed to be equivalent to 14 million neutrons per square centimeter incident upon the body; or, if there is sufficient information to estimate with reasonable accuracy the approximate distribution in energy of the neutrons, the incident number of neutrons per square centimeter equivalent to 1 rem may be estimated from the following table:

NEUTRON FLUX DOSE EQUIVALENTS

Neturon energy (million electron volts [Mev])	Number of neutrons per square centimeter equivalent to a dose of 1 rem (neutrons/cm²)	Average flux to deliver 100 millirem in 40 hours (neutrons/cm² per sec.)
Thermal	970×10^6	670
0.0001	720×10^6	500
0.005	820×10^6	570
0.02	400×10^6	280
0.1	120×10^6	80
0.5	43×10^6	30
1.0	26×10^6	18
2.5	29×10^6	20
5.0	26×10^6	18
7.5	24×10^6	17
10	24×10^6	17
10 to 30	14×10^6	10

(h) For determining exposures to X- or gamma rays up to 3 Mev., the dose limits specified in this part may be assumed to be equivalent to the "air dose". For the purpose of this subpart "air dose" means that the dose is measured by a properly calibrated appropriate instrument in air at or near the body surface in the region of the highest dosage rate.

§ 50-204.21 Exposure of individuals to radiation in restricted areas.

(a) Except as provided in paragraph (b) of this section, no employer shall possess, use, or transfer sources of ionizing radiation in such a manner as to cause any individual in a restricted area to receive in any period of one calendar quarter from sources in the employer's possession or control a dose in excess of the limits specified in the following table:

	Rems per calendar quarter
1. Whole body: Head and trunk; active blood-forming organs; lens of eyes; or gonads	1¼
2. Hands and forearms; feet and ankles	18¾
3. Skin of whole body	7½

(b) An employer may permit an individual in a restricted area to receive doses to the whole body greater than those permitted under paragraph (a) of this section, so long as:

(1) During any calendar quarter the dose to the whole body shall not exceed 3 rems; and

(2) The dose to the whole body, when added to the accumulated occupational dose to the whole body, shall not exceed 5 (N–18) rems, where "N" equals the individual's age in years at his last birthday; and

(3) The employer maintains adequate past and current exposure records which show that the addition of such a dose will not cause the individual to exceed the amount authorized in this paragraph. As used in this paragraph "Dose to the whole body" shall be deemed to include any dose to the whole body, gonad, active bloodforming organs, head and trunk, or lens of the eye.

(c) No employer shall permit any employee who is under 18 years of age to receive in any period of one calendar quarter a dose in excess of 10 percent of the limits specified in the table in paragraph (a) of this section.

(d) "Calendar quarter" means any 3-month period determined as follows:

(1) The first period of any year may begin on any date in January: *Provided*, That the second, third, and fourth periods accordingly begin on the same date in April, July, and October, respectively, and that the fourth period extends into January of the succeeding year, if necessary to complete a 3-month quarter. During the first year of use of this method of determination, the first period for that year shall also include any additional days in January preceding the starting date for the first period; or

(2) The first period in a calendar year of 13 complete, consecutive calendar weeks; the second period in a calendar year of 13 complete, consecutive calendar weeks; the third period in a calendar year of 13 complete, consecutive calendar weeks; the fourth period in a calendar year of 13 complete, consecutive calendar weeks. If at the end of a calendar year there are any days not falling within a complete calendar week of that year, such days shall be included within the last complete calendar week of that year. If at the beginning of any calendar year there are days not falling within a complete calendar week of that year, such days shall be included within the last complete calendar week of the previous year; or

(3) The four periods in a calendar year may consist of the first 14 complete, consecutive calendar weeks; the next 12 complete, consecutive calendar weeks, the next 14 complete, consecutive calendar weeks, and the last 12 complete, consecutive calendar weeks. If at the end of a calendar year there are any days not falling within a complete calendar week of that year, such days shall be included (for purposes of this part) within the last complete calendar week of the year. If at the beginning of any calendar year there are days not falling within a complete calendar week of that year, such days shall be included (for purposes of this part) within the last complete week of the previous year.

(e) No employer shall change the method used by him to determine calendar quarters except at the beginning of a calendar year.

§ 50-204.22 Exposure to airborne radioactive material.

(a) No employer shall possess, use or transport radioactive material in such a manner as to cause any employee, within a restricted area, to be exposed to airborne radioactive material in an average concentration in excess of the limits specified in Table I of Appendix B to 10 CFR Part 20. The limits given in Table I are for exposure to the concentrations specified for 40 hours in any workweek of 7 consecutive days. In any such period where the number of hours of exposure is less than 40, the limits specified in the table may be increased proportionately. In any such period where the number of hours of exposure is greater than 40, the limits specified in the table shall be decreased proportionately.

(b) No employer shall possess, use, or transfer radioactive material in such a manner as to cause any individual within a restricted area, who is under 18 years of age to be exposed to airborne radioactive material in an average concentration in excess of the limits specified in Table II of Appendix B to 10 CFR Part 20. For purposes of this paragraph, concentrations may be averaged over periods not greater than 1 week.

(c) "Exposed" as used in this section means that the individual is present in an airborne concentration. No allowance shall be made for the use of protective clothing or equipment, or particle size, except as authorized by the Director, Bureau of Labor Standards.

§ 50-204.23 Precautionary procedures and personnel monitoring.

(a) Every employer shall make such surveys as may be necessary for him to comply with the provisions in this subpart. "Survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions. When appropriate, such evaluation includes a physical survey of the location of materials and equipment, and measurements of levels of radiation or concentrations of radioactive material present.

(b) Every employer shall supply appropriate personnel monitoring equipment, such as film badges, pocket chambers, pocket dosimeters, or film rings, to, and shall require the use of such equipment by:

(1) Each employee who enters a restricted area under such circumstances that he receives, or is likely to receive, a dose in any calendar quarter in excess of 25 percent of the applicable value specified in paragraph (a) of § 50–204.21; and

(2) Each employee under 18 years of age who enters a restricted area under such circumstances that he receives, or is likely to receive, a dose in any calendar quarter in excess of 5 percent of the applicable value specified in paragraph (a) of § 50–204.21; and

(3) Each employee who enters a high radiation area.

(c) As used in this subpart:

(1) "Personnel monitoring equipment" means devices designed to be worn or carried by an individual for the purpose of measuring the dose received (e.g., film badges, pocket chambers, pocket dosimeters, film rings, etc.);

(2) "Radiation area" means any area, accessible to personnel, in which there exists radiation at such levels that a major portion of the body could receive in any one hour a dose in excess of 5 millirem, or in any 5 consecutive days a dose in excess of 100 millirem; and

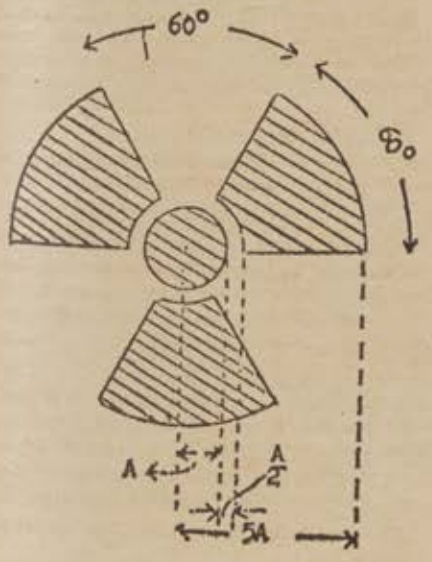
(3) "High radiation area" means any area, accessible to personnel, in which there exists radiation at such levels that a major portion of the body could receive in any one hour a dose in excess of 100 millirem.

§ 50–204.24 Caution signs, labels, and signals.

(a) *General.* (1) Symbols prescribed by this section shall use the conventional radiation caution colors (magenta or purple on yellow background). The symbol prescribed by this section is the conventional three-bladed design:

RADIATION SYMBOL

1. Cross-hatched area is to be magenta or purple.
2. Background is to be yellow.



(2) In addition to the contents of signs and labels prescribed in this section, employers may provide on or near such signs and labels any additional information which may be appropriate in aiding individuals to minimize exposure to radiation or to radioactive material.

(b) *Radiation areas.* Each radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION [2]
RADIATION AREA

(c) *High radiation area.* (1) Each high radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION [2]
HIGH RADIATION AREA

(2) Each high radiation area shall be equipped with a control device which shall either cause the level of radiation to be reduced below that at which an individual might receive a dose of 100 millirems in 1 hour upon entry into the area or shall energize a conspicuous visible or audible alarm signal in such a manner that the individual entering and the employer or a supervisor of the activity are made aware of the entry. In the case of a high radiation area established for a period of 30 days or less, such control device is not required.

(d) *Airborne radioactivity area.* (1) As used in the provisions of this subpart, "airborne radioactivity area" means (i) any room, enclosure, or operating area in which airborne radioactive materials, composed wholly or partly of radioactive material, exist in concentrations in excess of the amounts specified in column 1 of Table 1 of Appendix B to 10 CFR Part 20 or (ii) any room, enclosure, or operating area in which airborne radioactive materials exist in concentrations which, averaged over the number of hours in any week during which individuals are in the area, exceed 25 percent of the amounts specified in column 1 of the described Table 1.

(2) Each airborne radioactivity area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION [2]
AIRBORNE RADIOACTIVITY AREA

(e) *Additional requirements.* (1) Each area or room in which radioactive material is used or stored and which contains any radioactive material (other than natural uranium or thorium) in any amount exceeding 10 times the quantity of such material specified in Appendix C to 10 CFR Part 20 shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION [2]
RADIOACTIVE MATERIALS

(2) Each area or room in which natural uranium or thorium is used or stored in an amount exceeding 100 times the quantity specified in Appendix C to 10 CFR Part 20 shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION [2]
RADIOACTIVE MATERIALS

(f) *Containers.* (1) Each container in which is transported, stored, or used a quantity of any radioactive material (other than natural uranium or thorium) greater than the quantity of such material specified in Appendix C to 10 CFR Part 20 shall bear a durable, clearly visible label bearing the radiation caution symbol and the words:

CAUTION [2]
RADIOACTIVE MATERIALS

(2) Each container in which natural uranium or thorium is transported, stored, or used in a quantity greater than 10 times the quantity specified in Appendix C to 10 CFR Part 20 shall bear a durable, clearly visible label bearing the radiation caution symbol and the words:

CAUTION [2]
RADIOACTIVE MATERIALS

(3) Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph a label shall not be required:

(i) If the concentration of the material in the container does not exceed that specified in column 2 of the described Table 1, or

(ii) For laboratory containers, such as beakers, flasks, and tests tubes, used transiently in laboratory procedures, when the user is present.

(4) Where containers are used for storage, the labels required in this paragraph shall state also the quantities and kinds of radioactive materials in the containers and the date of measurement of the quantities.

§ 50–204.25 Exceptions from posting requirements.

Notwithstanding the provisions of § 50–204.24:

(a) A room or area is not required to be posted with a caution sign because of the presence of a sealed source, provided the radiation level 12 inches from the surface of the source container or housing does not exceed 5 millirem per hour.

(b) Rooms or other areas in on-site medical facilities are not required to be posted with caution signs because of the presence of patients containing radioactive material, provided that there are personnel in attendance who shall take the precautions necessary to prevent the exposure of any individual to radiation or radioactive material in excess of the limits established in the provisions of this subpart.

(c) Caution signs are not required to be posted at areas or rooms containing radioactive materials for periods of less than 8 hours: *Provided*, That (1) the materials are constantly attended during such periods by an individual who shall take the precautions necessary to prevent the exposure of any individual to radiation or radioactive materials in excess of the limits established in the provisions of this subpart; and (2) such area or room is subject to the employer's control.

[2] Or "Danger".

§ 50–204.26 Exemptions for radioactive materials packaged for shipment.

Radioactive materials packaged and labeled in accordance with regulations of the Department of Transportation shall be exempt from the labeling and posting requirements during shipment, provided that the inside containers are labeled in accordance with the provisions of § 50–204.24.

§ 50–204.27 Instruction of personnel posting.

Employers regulated by the AEC shall be governed by "§ 20.206" (10 CFR Part 20) standards. Employers in a State named in § 50–204.34(c) shall be governed by the requirements of the laws and regulations of that State. All other employers shall be regulated by the following:

(a) All individuals working in or frequenting any portion of a radiation area shall be informed of the occurrence of radioactive materials or of radiation in such portions of the radiation area; shall be instructed in the safety problems associated with exposure to such materials or radiation and in precautions or devices to minimize exposure; shall be instructed in the applicable provisions of this subpart for the protection of employees from exposure to radiation or radioactive materials; and shall be advised of reports of radiation exposure which employees may request pursuant to the regulations in this part.

(d) Each employer to whom this subpart applies shall post a current copy of its provisions and a copy of the operating procedures applicable to the work under contract conspicuously in such locations as to ensure that employees working in or frequenting radiation areas will observe these documents on the way to and from their place of employment, or shall keep such documents available for examination of employees upon request.

§ 50–204.28 Storage of radioactive materials.

Radioactive materials stored in a nonradiation area shall be secured against unauthorized removal from the place of storage.

§ 50–204.29 Waste disposal.

No employer shall dispose of radioactive material except by transfer to an authorized recipient, or in a manner approved by the Atomic Energy Commission or a State named in § 50–204.34(c).

§ 50–204.30 Notification of incidents.

(a) *Immediate notification.* Each employer shall immediately notify the Regional Director of the appropriate Wage and Labor Standards Administration, Office of Occupational Safety of the Bureau of Labor Standards of the U.S. Department of Labor, for employees not protected by AEC by means of 10 CFR Part 20, § 50–204.34(b) of this part, or the requirements of the laws and regulations of States named in § 50–204.34 (c), by telephone or telegraph of any incident involving radiation which may have caused or threatens to cause:

(1) Exposure of the whole body of any individual to 25 rems or more of radiation; exposure of the skin of the whole body of any individual to 150 rems or more of radiation; or exposure of the feet, ankles, hands, or forearms of any individual to 375 rems or more of radiation; or

(2) The release of radioactive material in concentrations which, if averaged over a period of 24 hours, would exceed 5,000 times the limit specified for such materials in Table II of Appendix B to 10 CFR Part 20.

(3) A loss of 1 working week or more of the operation of any facilities affected; or

(4) Damage to property in excess of $100,000.

(b) *Twenty-four hour notification.* Each employer shall within 24 hours following its occurrence notify the Regional Director of the appropriate Wage and Labor Standards Administration, Office of Occupational Safety of the Bureau of Labor Standards of the U.S. Department of Labor, for employees not protected by AEC by means of 10 CFR Part 20, § 50–204.34(b) of this part, or the requirements of the laws and applicable regulations of States named in § 50–204.34(c), by telephone or telegraph of any incident involving radiation which may have caused or threatens to cause:

(1) Exposure of the whole body of any individual to 5 rems or more of radiation; exposure of the skin of the whole body of any individual to 30 rems or more of radiation; or exposure of the feet, ankles, hands, or forearms to 75 rems or more of radiation; or

(2) A loss of 1 day or more of the operation of any facilities; or

(3) Damage to property in excess of $10,000.

§ 50–204.31 Reports of overexposure and excessive levels and concentrations.

(a) In addition to any notification required by § 50–204.30 each employer shall make a report in writing within 30 days to the Regional Director of the appropriate Wage and Labor Standards Administration, Office of Occupational Safety of the Bureau of Labor Standards of the U.S. Department of Labor, for employees not protected by AEC by means of 10 CFR Part 20, or under section 50–204.34(b) of this part, or the requirements of the laws and regulations of States named in § 50–204.34(c), of each exposure of an individual to radiation or concentrations of radioactive material in excess of any applicable limit in this subpart. Each report required under this paragraph shall describe the extent of exposure of persons to radiation or to radioactive material; levels of radiation and concentrations of radioactive material involved, the cause of the exposure, levels of concentrations; and corrective steps taken or planned to assure against a recurrence.

(b) In any case where an employer is required pursuant to the provisions of this section to report to the U.S. Department of Labor any exposure of an individual to radiation or to concentrations of radioactive material, the employer shall also notify such individual of the nature and extent of exposure. Such notice shall be in writing and shall contain the following statement: "You should preserve this report for future reference."

§ 50–204.32 Records.

(a) Every employer shall maintain records of the radiation exposure of all employees for whom personnel monitoring is required under § 50–204.23 and advise each of his employees of his individual exposure on at least an annual basis.

(b) Every employer shall maintain records in the same units used in tables in § 50–204.21 and Appendix B to 10 CFR Part 20.

§ 50–204.33 Disclosure to former employee of individual employee's record.

(a) At the request of a former employee an employer shall furnish to the employee a report of the employee's exposure to radiation as shown in records maintained by the employer pursuant to § 50–204.32(a). Such report shall be furnished within 30 days from the time the request is made, and shall cover each calendar quarter of the individual's employment involving exposure to radiation or such lesser period as may be requested by the employee. The report shall also include the results of any calculations and analysis of radioactive material deposited in the body of the employee. The report shall be in writing and contain the following statement: "You should preserve this report for future reference."

(b) The former employee's request should include appropriate identifying data, such as social security number and dates and locations of employment.

§ 50–204.34 AEC licensees—AEC contractors operating AEC plants and facilities—AEC agreement State licensees or registrants.

(a) Any employer who possesses or uses source material, byproduct material, or special nuclear material, as defined in the Atomic Energy Act of 1954, as amended, under a license issued by the Atomic Energy Commission and in accordance with the requirements of 10 CFR Part 20 shall be deemed to be in compliance with the requirements of this subpart with respect to such possession and use.

(b) AEC contractors operating AEC plants and facilities: Any employer who possesses or uses source material, byproduct material, special nuclear material, or other radiation sources under a contract with the Atomic Energy Commission for the operation of AEC plants and facilities and in accordance with the standards, procedures, and other requirements for radiation protection established by the Commission for such contract pursuant to the Atomic Energy Act of 1954 as amended (42 U.S.C. 2011 et seq.), shall be deemed to be in compliance with the requirements of this subpart with respect to such possession and use.

(c) AEC-agreement State licensees or registrants:

(1) *Atomic Energy Act Sources.* Any employer who possesses or uses source material, byproduct material, or special nuclear material, as defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and has either registered such sources with, or is operating under a license issued by, a State which has an agreement in effect with the Atomic Energy Commission pursuant to section 274(b) (42 U.S.C. 2021(b)) of the Atomic Energy Act of 1954, as amended, and in accordance with the requirements of that State's laws and regulations shall be deemed to be in compliance with the radiation requirements of this part, insofar as his possession and use of such material is concerned, unless the Secretary of Labor, after conference with the Atomic Energy Commission, shall determine that the State's program for control of these radiation sources is incompatible with the requirements of this part. Such agreements currently are in effect only in the States of Alabama, Arkansas, California, Kansas, Kentucky, Florida, Mississippi, New Hampshire, New York, North Carolina, Texas, Tennessee, Oregon, Idaho, Arizona, Colorado, Louisiana, Nebraska, and Washington.

(2) *Other sources.* Any employer who possesses or uses radiation sources other than source material, byproduct material, or special nuclear material, as defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and has either registered such sources with, or is operating under a license issued by a State which has an agreement in effect with the Atomic Energy Commission pursuant to section 274(b) (42 U.S.C. 2021(b)) of the Atomic Energy Act of 1954, as amended, and in accordance with the requirements of that State's laws and regulations shall be deemed to be in compliance with the radiation requirements of this part, insofar as his possession and use of such material is concerned, provided the State's program for control of these radiation sources is the subject of a currently effective determination by the Secretary of Labor that such program is compatible with the requirements of this part. Such determinations currently are in effect only in the States of Alabama, Arkansas, California, Kansas, Kentucky, Florida, Mississippi, New Hampshire, New York, North Carolina, Texas, Tennessee, Oregon, Idaho, Arizona, Colorado, Louisiana, Nebraska, and Washington.

§ 50–204.35 Application for variations from radiation levels.

(a) In accordance with policy expressed in the Federal Radiation Council's memorandum concerning radiation protection guidance for Federal agencies (25 F.R. 4402), the Director, Bureau of Labor Standards may from time to time grant permission to employers to vary from the limitations contained in §§ 50–204.21 and 50–204.22 when the extent of variation is clearly specified and it is demonstrated to his satisfaction that (1) such variation is necessary to obtain a beneficial use of radiation or atomic energy, (2) such benefit is of sufficient value to warrant the variation, (3) employees will not be exposed to an undue hazard, and (4) appropriate actions will be taken to protect the health and safety of such employees.

(b) Applications for such variations should be filed with the Director, Bureau of Labor Standards, U.S. Department of Labor, Washington, D.C. 20210.

§ 50–204.36 Radiation standards for mining.

(a) For the purpose of this section, a "working level" is defined as any combination of radon daughters in 1 liter of air which will result in the ultimate emission of 1.3×10^5 million electron volts of potential alpha energy. The numerical value of the "working level" is derived from the alpha energy released by the total decay of short-lived radon daughter products in equilibrium with 100 pico-curies of radon 222 per liter of air. A working level month is defined as the exposure received by a worker breathing air at one working level concentration for 4⅓ weeks of 40 hours each.

(b) (1) Occupational exposure to radon daughters in mines shall be controlled so that no individual will receive an exposure of more than 2 working level months in any consecutive 3-month period and no more than 4 working level months in any consecutive 12-month period. Actual exposures shall be kept as far below these values as practicable.

(2) In enforcing this section, the Director of the Bureau of Labor Standards may at any stage approve variations in individual cases from the limitation set forth in subparagraph (1) of this paragraph to comply with the requirements of the Act upon a showing to the satisfaction of the Director by an employer having a mine with conditions resulting in an exposure of more than 4 working level months but not more than 12 working level months in any 12 consecutive months that (i) under the particular facts and circumstances involved the working conditions of the employees so exposed are such that their health and safety are protected, and (ii) the employer has a bona fide plan to reduce the levels of exposure to those specified in subparagraph (1) of this paragraph as soon as practicable, but in no event later than January 1, 1971.

(c) For uranium mines, records of environmental concentrations in the occupied parts of the mine, and of the time spent in each area by each person involved in underground work shall be established and maintained. These records shall be in sufficient detail to permit calculations of the exposures, in units of working level months, of the individuals and shall be available for inspection by the Secretary of Labor or his authorized agents.

(2) For other than uranium mines and for surface workers in all mines, subparagraph (1) of this paragraph will be applicable: *Provided, however,* That if no environmental sample shows a concentration greater than 0.33 working level in any occupied part of the mine, the maintenance of individual occupancy records and the calculation of individual exposures will not be required.

(d) (1) At the request of an employee (or former employee) a report of the employee's exposure to radiation as shown in records maintained by the employer pursuant to paragraph (c) of this section, shall be furnished to him. The report shall be in writing and contain the following statement:

> This report is furnished to you under the provisions of the U.S. Department of Labor, Radiation Safety and Health Standards (41 CFR 50–204.36). You should preserve this report for future reference.

(2) The former employee's request should include appropriate identifying data, such as social security number and dates and locations of employment.

Subpart D—Gases, Vapors, Fumes, Dusts, and Mists

§ 50–204.50 Gases, vapors, fumes, dusts, and mists.

(a) No employee shall be exposed by inhalation, ingestion; skin absorption or contact to any material or substance at a concentration above that specified in the "Threshold Limit Values of Airborne Contaminants for 1968" of the American Conference of Governmental Industrial Hygienists except for the following standards—the values listed in Table I of this section which are the subject of current USASI standards and except for the values of Mineral Dusts—Table II of this section as they appear herein.

(b) In all cases, feasible engineering controls must first be determined and implemented. Methods of control in the working environment include local exhaust ventilation, general room air ventilation for dilution of the contaminant, substitution of less toxic material, and isolation or enclosure of the process or operation. In cases where protective equipment or protective equipment in addition to other measures is used as the method of protecting the employee, such protection must be approved for each specific case by a competent industrial hygienist.

TABLE I

	8-hr. time weighted average
Hydrogen Sulfide (Z37.2–1966)	20ppm
Toluene (Z37.12–1967)	200ppm
Formaldehyde (Z37.16–1967)	3ppm
Carbon Tetrachloride (Z37.17–1967)	10ppm
Trichlorethylene (Z37.19–1967)	100ppm
Tetrachloroethylene (Z37.22–1967)	100ppm
Hydrogen Fluoride (Z37.28–1966)	3ppm
Fluoride Dust as F (Z37.28–1966)	2.5mg/M³

TABLE II

MINERAL DUSTS

Substance	Mppcf*	Mg/M³
Silica:		
Crystalline—		
Quartz (Respirable)	250[1]	10mg/M³=
	%SiO₂+5	%SiO₂+2
Quartz (Total Dust)		30mg/M³
		%SiO₂+2
Cristobalite: Use ½ the value calculated from the count or mass formulae for quartz.		
Tridymite: Use ½ the value calculated from the formulae for quartz.		
Amorphous, including natural diatomaceous earth	20	80mg/M³
		%SiO₂
Tremolite	5	20mg/M³
		%SiO₂
Silicates (less than 1% crystalline silica):		
Asbestos—12 fibers per milliliter greater than 5 microns in length[3] or	2	
Mica	20	
Soapstone	20	
Talc	20	
Portland Cement	50	
Graphite (natural)	15	
Coal Dust (Respirable fraction less than 5% SiO_2)		1.6mg/M³ or 10mg/M³
		%SiO₂+2
Inert or Nuisance Dust:		
Respirable Fraction	15	5mg/M³
Total Dust	50	15mg/M³

NOTE: Conversion factors

mppcf×35.3=million particles per cubic meter
=particles per c.c.

*Millions of particles per cubic foot of air, based on impinger samples counted by light-field technics.

[1] The percentage of crystalline silica in the formula is the amount determined from air-borne samples, except in those instances in which other methods have been shown to be applicable.

[3] As determined by the membrane filter method at 430 X phase contrast magnification.

[4] As counted by the standard impinger, light-field count technique.

= Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

Aerodynamic diameter (unit density sphere)	% passing selector
2	90
2.5	75
3.5	50
5.0	25
10	0
	0

§ 50–204.65 Inspection of compressed gas cylinders.

Each contractor shall determine that compressed gas cylinders under his control are in a safe condition to the extent that this can be determined by visual inspection. Visual and other inspections shall be conducted as prescribed in the Hazardous Materials Regulations of the Department of Transportation (49 CFR Parts 171–179 and 14 CFR Part 103). Where those regulations are not applicable, visual and other inspections shall be conducted in accordance with Compressed Gas Association Pamphlets C–6–198 and C–8–1962.

§ 50–204.66 Acetylene.

(a) The in-plant transfer, handling, storage, and utilization of acetylene in cylinders shall be in accordance with Compressed Gas Association Pamphlet G–1–1966.

(b) The piped systems for the in-plant transfer and distribution of acetylene shall be designed, installed, maintained, and operated in accordance with Compressed Gas Association Pamphlet G–1.3–1959.

(c) Plants for the generation of acetylene and the charging (filling) of acetylene cylinders shall be designed, constructed, and tested in accordance with the standards prescribed in Compressed Gas Association Pamphlet G–1.4–1966.

§ 50–204.67 Oxygen.

The in-plant transfer, handling, storage, and utilization of oxygen as a liquid or a compressed gas shall be in accordance with Compressed Gas Association Pamphlet G–4–1962.

§ 50–204.68 Hydrogen.

The in-plant transfer, handling, storage, and utilization of hydrogen shall be in accordance with Compressed Gas Association Pamphlets G–5.1–1961 and G–5.2–1966.

§ 50–204.69 Nitrous oxide.

The piped systems for the in-plant transfer and distribution of nitrous oxide shall be designed, installed, maintained, and operated in accordance with Compressed Gas Association Pamphlet G–8.1–1964.

§ 50–204.70 Compressed gases.

The in-plant handling, storage, and utilization of all compressed gases in cylinders, portable tanks, rail tankcars, or motor vehicle cargo tanks shall be in accordance with Compressed Gas Association Pamphlet P–1–1965. Compressed gas cylinders, portable tanks, and cargo tanks shall have pressure relief devices which shall be installed and maintained in accordance with Compressed Gas Association Pamphlets S–1.1–1963 (with 1965 addenda) and S–1.2–1963.

§ 50–204.71 Safety relief devices for compressed gas containers.

Compressed gas cylinders, portable tanks, and cargo tanks shall have pressure relief devices installed and maintained in accordance with Compressed Gas Association Pamphlets S–1.1–1963 and 1965 addenda and S–1.2–1963.

§ 50–204.72 Safe practices for welding and cutting on containers which have held combustibles.

Welding or cutting or both on containers which have held flammable or combustible solids, liquids, or gases, or have contained substances which may produce flammable vapors or gases will not be attempted until the containers have been thoroughly cleaned in strict accordance with the rules and procedures embodied in American Welding Society Pamphlet A–6.0–65, edition of 1965.

Subpart E—Transportation Safety

§ 50–204.75 Transportation safety.

Transportation in connection with public contracts, as listed in § 50–204.2(a)(3) shall be conducted in accordance with the U.S. Department of Transportation requirements. Where such requirements do not apply, Chapters 10, 11, 12, and 14 of the Uniform Vehicle Code of the National Committee on Uniform Traffic Laws and Ordinances, 1962 Edition, shall be used.

Subpart F—Variations

§ 50–204.80 Variations.

(a) Upon the written request of any interested person, the Director of the Bureau of Labor Standards may in particular cases apply variations from the provisions of this part in enforcing the Walsh-Healey Public Contracts Act following consideration of the particular facts and circumstances involved whenever he is satisfied that the safety and health of employees is equally protected by such variations.

(b) The provisions of this section shall not apply to §§ 50–204.35 and 50–204.36, which contain separate and specific variations procedures.

2. Section 50–201.502 is revised to read as follows:

§ 50–201.502 Record of injuries.

(a) Every person who is or shall become a party to a Government contract which is subject to the provisions of the Walsh-Healey Public Contracts Act and the regulations thereunder, or who is performing or shall perform any part of such contract subject to the provisions of such act or regulations, shall maintain the records specified below which shall be available for inspection by authorized representatives of the Secretary of Labor:

(1) Records of all injuries to employees, including a brief description of the manner of occurrence and the date and duration of disability.

(2) Records of injury frequency rates, calculated annually on a calendar year basis commencing the first of January of each year, as defined in United States of America Standards Institute, Z16.1–1967 "Method of Recording and Measuring Work Injury Experience."

(3) Records of injury severity rates, calculated annually on a calendar year basis commencing the first of January of each year, as defined in United States of America Standards Institute, Z16.1–1967 "Method of Recording and Measuring Work Injury Experience."

(b) The records required in paragraph (a) of this section shall be kept on file at least 3 years from the date of entry.

(c) Where records are kept on a fiscal or insurance year basis, they shall be accepted as being in compliance with subparagraphs (2) and (3) of paragraph (a) of this section.

(Sec. 4, 49 Stat. 2036; 41 U.S.C. 2038)

Signed at Washington, D.C. this 10th day of January 1969.

WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 69–563; Filed, Jan. 16, 1969; 8:45 a.m.]