Pages 2675–2717

FEDERAL REGISTER

VOLUME 27 NUMBER 56

Washington, Thursday, March 22, 1962

Contents

(*Continued on next page*)

Codification Guide

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

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

3 CFR

PROCLAMATIONS:
Nov. 5, 1891 (see F.R. Docs. 62–2733 and 62–2734) 2706

EXECUTIVE ORDERS:
11011 2677

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
Letter, Mar. 16, 1962 2677

7 CFR

723 2679
725 2679
728 2680
730 2680

PROPOSED RULES:
946 2695
1195 2695

8 CFR

103 2681
332a 2681
334 2681
499 2681

10 CFR

115 2682

13 CFR

PROPOSED RULES:
107 2705

14 CFR

302 2681
507 2682

PROPOSED RULES:
507 2703
601 2703
602 (2 documents) 2704
608 2704

16 CFR

13 (4 documents) 2683, 2684

18 CFR

PROPOSED RULES:
154 2705

32A CFR

BPR (CH. IX):
Thm–1 2685

38 CFR

2 2685
36 2686

39 CFR

35 2687
36 2687
37 2687
45 2687
113 2687
121 2687
122 2687
139 2687
168 2687

47 CFR

1 2689

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11011

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE TRANS WORLD AIRLINES, INC., AND CERTAIN OF ITS EMPLOYEES

WHEREAS a dispute exists between the Trans World Airlines, Inc., a carrier, and certain of its employees represented by the Flight Engineers' International Association, AFL–CIO, a labor organization; and

WHEREAS this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by Section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a board of three members, to be appointed by me, to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of airline employees or any carrier.

The board shall report its findings to the President with respect to the dispute within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the Trans World Airlines, Inc. or by its employees, in the conditions out of which the dispute arose.

JOHN F. KENNEDY

THE WHITE HOUSE,
March 20, 1962.

[F.R. Doc. 62–2807; Filed, Mar. 20, 1962; 1:31 p.m.]

Letter of March 16, 1962

[DELEGATION OF AUTHORITY TO SECRETARY OF THE TREASURY WITH RESPECT TO CERTAIN TEXTILES AND TEXTILE PRODUCTS]

THE WHITE HOUSE,
Washington, March 16, 1962.

DEAR MR. SECRETARY:

Subject to the provisions of the following paragraphs of this letter, I delegate to the Secretary of the Treasury the authority conferred upon the President by that part of section 204 of the Agricultural Act of 1956 (70 Stat. 200; 7 U.S.C. 1854) which reads "the President is authorized to issue regulations governing the entry or withdrawal from warehouse of any such commodity, product, textiles, or textile products to carry out any such agreement."

The above-described authority is delegated only in respect of textiles and textile products and also only in respect of "Arragements regarding international trade in cotton textiles", done at Geneva July 21, 1961.

The Secretary of the Treasury is authorized to administer the regulations issued by him under the foregoing provisions of this letter. In any individual cases of importation or withdrawal from warehouse of textiles or textile products which may arise, (1) the Interagency Textile Administrative Committee is authorized to recommend to the

Secretary of the Treasury the actions to be taken by the Secretary, and (2) the Secretary shall take action governing importation or withdrawal from warehouse of textiles or textile products only upon such recommendation of the Interagency Textile Administrative Committee.

Please see that this letter is published in the FEDERAL REGISTER.

Sincerely,

JOHN F. KENNEDY

HONORABLE DOUGLAS DILLON,
Secretary of the Treasury,
Washington 25, D.C.

[F.R. Doc. 62-2819; Filed, Mar. 20, 1962; 4:35 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 723—CIGAR-FILLER TOBACCO, CIGAR-BINDER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

Subpart—Proclamation of Results of Cigar-Filler (Type 41) Tobacco Marketing Quota Referenda and Establishment of Procedure for Petitioning for Referendum

§ 723.907 Basis and purpose.

The purpose of this proclamation is (a) to announce the results of the cigar-filler (type 41) tobacco marketing quota referendum for the three marketing years beginning October 1, 1962, and (b) to establish a procedure whereby the Secretary of Agriculture may be petitioned prior to November 10, 1962, or prior to November 10, 1963, respectively, to proclaim national marketing quotas for cigar-filler (type 41) tobacco for the next three respective succeeding marketing years pursuant to subsection 312(a) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1312(a)). Under the provisions of section 312 of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1312), the Secretary proclaimed a national marketing quota for cigar-filler (type 41) tobacco for the 1962–63, 1963–64 and 1964–65 marketing years and announced the amount of the national marketing quota for the 1962–63 marketing year (27 F.R. 964). The Secretary announced (27 F.R. 993) that a referendum would be held on February 20, 1962, to determine whether cigar-filler (type 41) tobacco farmers were in favor of or opposed to marketing quotas for the three marketing years beginning October 1, 1962. Since the only purpose of this document is to announce the results of the referendum and to provide a petition procedure, it is hereby found and determined that the application of the notice, public procedure, and effective date requirements of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) is impractical and unnecessary. Therefore, the proclamation and petition procedure contained herein shall become effective upon the date of filing with the Director, Office of the Federal Register.

§ 723.908 Proclamation of results of cigar-filler (type 41) tobacco marketing quota referendum for the three-year period beginning October 1, 1962 and petition procedure.

(a) *Proclamation.* In a referendum held on February 20, 1962, of farmers engaged in the production of the 1961 crop of cigar-filler (type 41) tobacco, 4,275 farmers voted. Of those voting, 591, or 13.8 percent, favored national marketing quotas for the three marketing years, 1962–63, 1963–64 and 1964–65; 3,684, or 86.2 percent, were opposed to quotas. Since more than one-third of the farmers voting opposed quotas, the national marketing quota for cigar-filler (type 41) tobacco of 40,000,000 pounds for the marketing year beginning October 1, 1962, proclaimed on January 30, 1962 (27 F.R. 964) becomes ineffective. Therefore, marketing quotas will not be in effect on cigar-filler (type 41) tobacco for the marketing year beginning October 1, 1962, nor, as national marketing quotas have been disapproved in three successive years since 1952 (18 F.R. 8474; 19 F.R. 9365; 21 F.R. 668) for the marketing years beginning October 1, 1963, and October 1, 1964, respectively, unless pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture is petitioned prior to November 10, 1962 (7 U.S.C. 1312) or prior to November 10, 1963, by one-fourth or more eligible farmers to proclaim national marketing quotas for the next three succeeding marketing years and unless the quotas so proclaimed are approved by two-thirds or more of the farmers voting in a referendum.

(b) *Petition procedure.* Any petition under paragraph (a) of said section 312 shall be in writing and be submitted to the Secretary, or if mailed shall be postmarked, prior to November 10, 1962, in the case of a petition for marketing quotas for the marketing years 1963–64, 1964–65 and 1965–66, or prior to November 10, 1963, in the case of a petition for marketing quotas for the marketing years 1964–65, 1965–66 and 1966–67. Any such petition shall include the address of each person signatory thereto; shall state that such persons favor the proclamation of national marketing quotas for cigar-filler (type 41) tobacco for the years stated in the petition, and the holding of a referendum; and shall show that such persons are farmers engaged in the production of the crop of cigar-filler (type 41) tobacco harvested in the calendar year preceding the first of the marketing years stated in the petition and constitute one-fourth or more of the farmers so engaged.

(Secs. 312, 375, 52 Stat. 46, as amended, 66, as amended; 7 U.S.C. 1312, 1375)

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

Signed at Washington, D.C., on March 16, 1962.

EMERY E. JACOBS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62-2773; Filed, Mar. 21, 1962; 8:50 a.m.]

PART 725—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED AND VIRGINIA SUN-CURED TOBACCO

Subpart—Proclamation of Results of Burley Tobacco and Virginia Sun-Cured Tobacco Marketing Quota Referenda

Basis and purpose. The purpose of this proclamation is to announce the results of the burley tobacco and Virginia sun-cured tobacco marketing quota referenda for the three marketing years beginning October 1, 1962. Under the provisions of the Agricultural Adjustment Act of 1938, as amended, the Secretary proclaimed national marketing quotas for burley tobacco and Virginia sun-cured tobacco for the 1962–63, 1963–64 and 1964–65 marketing years and announced the amounts of the national marketing quotas for burley tobacco and Virginia sun-cured tobacco for the 1962–63 marketing year (27 F.R. 966). The Secretary announced (27 F.R. 993) that referenda would be held on February 20, 1962, to determine whether burley tobacco farmers and Virginia sun-cured tobacco farmers were in favor of or opposed to marketing quotas for the three marketing years beginning October 1, 1962. Since the only purpose of this proclamation is to announce the results of the referenda, it is hereby found and determined that, with respect to this proclamation, application of the notice and public procedure, and effective date requirements of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) is impractical and unnecessary. Therefore, this proclamation shall become effective upon the date of filing with the Director, Office of the Federal Register.

§ 725.1304a Proclamation of results of burley tobacco marketing quota referendum for the three-year period beginning October 1, 1962.

In a referendum held on February 20, 1962, of farmers engaged in the production of the 1961 crop of burley tobacco, 176,926 farmers voted. Of those voting, 175,520 or 99.2 percent, favored national marketing quotas for the three marketing years, 1962–63, 1963–64 and 1964–65, and 1,406, or 0.8 percent, were opposed to quotas. Therefore, the national marketing quota of 571,800,000 pounds proclaimed by the Secretary on January 30, 1962 (27 F.R. 966) for burley tobacco for the 1962–63 marketing year will be in effect for such year and marketing quotas on burley tobacco will be in effect for the three marketing years beginning October 1, 1962.

§ 725.1309b Proclamation of results of Virginia sun-cured tobacco marketing quota referendum beginning October 1, 1962.

In a referendum held on February 20, 1962, of farmers engaged in the produc-

tion of the 1961 crop of Virginia sun-cured tobacco, 1,431 farmers voted. Of those voting, 1,409, or 98.5 percent, favored national marketing quotas for the three marketing years, 1962–63, 1963–64 and 1964–65; and 22, or 1.5 percent, were opposed to quotas. Therefore, the national marketing quota of 4,468,000 pounds proclaimed by the Secretary on January 30, 1962 (27 F.R. 967) for Virginia sun-cured tobacco for the 1962–63 marketing year will be in effect for such year and marketing quotas on Virginia sun-cured tobacco will be in effect for the three marketing years beginning October 1, 1962.

(Secs. 312, 375, 52 Stat. 46, as amended, 66, as amended; 7 U.S.C. 1312, 1375)

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

Signed at Washington, D.C., on March 16, 1962.

EMERY E. JACOBS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62–2774; Filed, Mar. 21, 1962; 8:50 a.m.]

[Amdt. 6]

PART 728—WHEAT

Subpart—Wheat Marketing Quota Regulations for 1961 and Subsequent Crop Years

EXCESS ACREAGE UTILIZATION DATE

Basis and purpose. The amendment herein is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, and is issued for the purpose of amending the date for the disposal of excess wheat acreage in all counties in North Carolina. Since the determination of 1962 wheat acreage will soon be made, it is important that State and county committees be notified of the amendment herein as soon as possible so that producers with 1962 excess wheat acreage may be notified of the final date for utilization of such excess acreage as wheat cover crop. Accordingly, it is hereby found that compliance with the public notice, procedure and 30-day effective date provisions of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest. Therefore, the amendment shall become effective upon its publication in the FEDERAL REGISTER.

Paragraph (b) of § 728.1145 is amended to change the date of May 15 to May 31 for all counties in North Carolina.

(Secs. 374, 375, 52 Stat. 65, 66, as amended; 68 Stat. 904, 7 U.S.C. 1374, 1375)

Effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on March 16, 1962.

EMERY E. JACOBS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62–2775; Filed, Mar. 21, 1962; 8:50 a.m.]

[Amdt. 10]

PART 730—RICE

Subpart—Regulations for the Determination of Rice Acreage Allotments for the 1959 and Subsequent Crops of Rice

MISCELLANEOUS AMENDMENTS

On pages 1499 and 1500 of the FEDERAL REGISTER of February 17, 1962, there was published a notice of proposed rule making to issue amendments to the regulations pertaining to the determination of acreage allotments for 1959 and subsequent crops of rice. Interested persons were given 10 days from the date of such publication in which to submit written data, views or recommendations with respect to the proposed amendments. No data, views, or recommendations were received. The amendments are hereby adopted for the 1962 and susequent crop years, subject to the change set forth below, which is necessary because of the expiration of one closing date and the impending expiration of another closing date with respect to the 1962 crop:

1. Paragraph (a) of § 730.1024 is amended by adding a footnote "2" following the States of Florida and North Carolina and by adding immediately below "[1] Producer administrative area.", the footnote explanation, "[2] Extended to April 1 for the 1962 crop year only."

2. An effective date provision is added immediately following the amendments.

Signed at Washington, D.C., on March 16, 1962.

EMERY E. JACOBS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

1. Section 730.1021(e) is amended to read as follows:

(e) If the county or State committee has reason to believe, after the establishment of any farm acreage allotment in accordance with this section, that a tenant whose allotment acreage was allocated to such farm is not, or was not, in fact actively participating in the production of the rice crop produced on the farm in such year, a hearing shall be scheduled by the county committee and the tenant shall be invited to be present, or to be represented, at which time he shall be given an opportunity to substantiate his claim that he is, or was, actively engaged in the production of rice on the farm as indicated at the time of filing his request for the allocation of his producer allotment to the farm. If the county committee, with State committee approval, or the State committee finds that such tenant is not, or was not, actively participating in the production of the rice crop on the farm, except where allocation was made for the purpose of participating in the conservation reserve program or for the preservation of acreage, and therefore did not actively engage in the production of rice on such farm during the year in question, the county committee shall, with the approval of the State committee, recall such producer's allotment acreage previously allocated to the farm and adjust the farm rice acreage allotment accordingly. The county committee shall notify the farm operator of the revised farm acreage allotment. Such notice shall be on an official Form MQ-24 and will be accompanied by a letter of explanation as to the reason such action was taken to reduce the farm acreage allotment. A copy of the notice and letter shall be forwarded to all persons engaged in the production of rice on the farm. Any allotment acreage recalled by the county committee under this section shall not be available for apportionment or reallocation to any other farm.

2. Paragraphs (a) and (b) of § 730.1024 are amended to read as follows:

(a) In a producer State or area, a producer may, not later than the applicable closing date prescribed in this section voluntarily release to the county committee all or any part of his producer rice acreage allotment that will not be allocated to a farm in the current year. Such released acreage shall be deducted from the allotment established for such producer and may, except as provided in paragraph (e) of this section, be reapportioned by the county committee to other producers (old or new) by whom a request for increase in acreage allotment has been timely filed in the same county in amounts determined to be fair and reasonable on the basis of the production of rice by the producer during the five years immediately preceding the current year; previous rice acreage allotments established for the producer; abnormal conditions affecting acreage; land, labor, water and equipment available for the production of rice; crop-rotation practices; and the soil and other physical factors affecting the production of rice. The closing date in each producer State or area for the release of rice acreage allotments shall be as follows:

California	Apr. 1
Florida [2]	Mar. 15
Louisiana [1]	Apr. 24
North Carolina [2]	Mar. 1
Tennessee	Apr. 1
Texas	Apr. 20

[1] Producer administrative area.
[2] Extended to April 1 for the 1962 crop year only.

The closing date in each producer State or area for reapportionment of rice acreage allotment shall be a date not later than 15 days after the applicable release date indicated herein.

(b) To be eligible for an increase in a farm acreage allotment from released acreage, a request for such increase must be filed in the county office by the applicant on or before the applicable release date indicated herein. The State committee shall have the option of considering a verbal request acceptable, or requiring a written request before the county committee may consider reapportioning released acreage to a farm. In either event, only those farms for which a request is timely filed shall be

given consideration when reapportioning released acreage in the State.

3. Paragraphs (a) and (b) of § 730.1033 are amended to read as follows:

(a) In a farm State, any part of the rice acreage allotment determined for a farm that will not be planted in the current year, including pooled rice acreage allotment for a farm acquired under right of eminent domain, and which is voluntarily released by the owner or operator of the farm to the county committee not later than the applicable closing date prescribed in this section shall be deducted from the rice acreage allotment determined for such farm, and may, except as provided under paragraph (e) of this section, be reapportioned by the county committee to other farms (old or new) for which a request for increase in acreage allotment has been timely filed, in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of the production of rice on the farm during the five years immediately preceding the current year; farm acreage allotments previously estabiished for the farm; abnormal conditions affecting acreage; land, labor, water and equipment available for the production of rice; crop-rotation practices; and the soil and other physical factors affecting the production of rice. The closing date, in each farm State, or area, for the release of farm rice acreage allotments shall be as follows:

Arkansas	May 1
Illinois	May 1
Louisiana [1]	Apr. 24
Mississippi	May 1
Missouri	May 1
Oklahoma	May 1
South Carolina	Apr. 1

[1] Farm administrative area.

The closing date in each farm State or area for reapportionment of farm rice acreage allotment shall be a date not later than 15 days after the applicable release date indicated herein.

(b) To be eligible for an increase in a farm acreage allotment from released acreage, a request for such increase must be filed in the county office by the applicant on or before the applicable release date indicated herein. The State committee shall have the option of considering a verbal request acceptable, or requiring a written request before the county committee may consider reapportioning released acreage to a farm. In either event, only those farms for which a request is timely filed shall be given consideration when reapportioning released acreage in the State.

Effective date: Because rice farmers are preparing to plant their 1962 crop of rice and must be able to take action prior to the closing dates prescribed in the amendments if the amendments are to be effective in all rice producing States on plantings of the 1962 crop of rice, compliance with the effective date requirements of section 4 of the Administrative Procedure Act is hereby found to be contrary to the public interest. Therefore, these amendments shall become effective upon publication in the FEDERAL REGISTER.

[F.R. Doc. 62-2776; Filed, Mar. 21, 1962; 8:50 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS

PART 332a—OFFICIAL FORMS

PART 334—PETITION FOR NATURALIZATION

PART 499—NATIONALITY FORMS

Miscellaneous Amendments

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

§ 103.7 [Amendment]

In Part 103—Powers and Duties of Service Officers, paragraph (c) *Additional fees* of § 103.7 *Records and fees* is amended by adding the following at the end thereof: "Except as otherwise provided in § 3.3(b) of this chapter, any of the foregoing fees relating to applications, appeals, and motions may be waived in any case in which an alien or other party affected is unable to pay the prescribed fee if he files with the relating application, appeal, or motion his affidavit stating the nature thereof, his belief that he is entitled to redress, and his inability to pay the required fee, and shall request permission to prosecute the application, appeal, or motion without prepayment of such fee. When such an affidavit is filed with the officer of the Service having jurisdiction to render a decision on the application, appeal, or motion, such officer may, in his discretion, authorize the prosecution of the relating application, appeal, or motion without prepayment of fee."

§ 332a.2 [Amendment]

In Part 332a—Official Forms, the list of forms in § 332a.2 *Official forms prescribed for use of clerks of naturalization courts* is amended by adding the following form and reference thereto:

Form No.	*Title and description*
N-414a--	Acknowledgment of Filing Petition for Naturalization and Index Card.

In Part 334—Petition for Naturalization, § 334.13 is amended to read as follows:

§ 334.13 Filing of petition for naturalization.

The petition for naturalization and the duplicate copy thereof shall be filed by the petitioner, in person, with the clerk of the court or his authorized deputy and only in the office of the clerk, except that an applicant for naturalization who satisfactorily establishes that he is prevented by sickness or other disability from appearing in the office of the clerk, may file the petition for naturalization at such other place as may be designated by the clerk of court or his authorized deputy. Except as otherwise provided in this subchapter, the petition shall be on Form N-405 and shall contain an averment that it is the intention of the petitioner to reside permanently in the United States. The petition shall be signed by the petitioner in the English language, if physically able to write, unless the petitioner on December 24, 1952, was over fifty years of age and had been living in the United States for at least twenty years, in which case the petitioner may sign his name in any language. When the petition has been so filed, the clerk shall furnish to the petitioner an acknowledgment of the filing of the petition on Form N-414 or Form N-414a. The petitioner shall pay the clerk of the naturalization court, at the time the petition is filed, a fee of $10, unless the petitioner is exempt therefrom by section 344(h) of the Immigration and Nationality Act.

§ 499.1 [Amendment]

In Part 499—Nationality Forms, the list of forms in § 499.1 *Prescribed forms* is amended by adding the following form and reference thereto:

Form No.	*Title and description*
N-414a--	Acknowledgment of Filing Petition for Naturalization and Index Card.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment to § 103.7(c) relieves restrictions and is clearly advantageous to persons affected thereby and the other amendments relate to agency procedure.

Dated: March 16, 1962.

R. F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 62-2750; Filed, Mar. 21, 1962; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. No. PR-61]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Petitions for Reconsideration of Interlocutory Orders

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of March 1962.

On November 8, 1961, the Board issued a notice of proposed rule making, PDR–14, Docket 13165 (26 F.R. 10641), proposing an amendment of § 302.37 of the Rules of Practice in Economic Proceedings which would expressly prohibit the filing of petitions for reconsideration of interlocutory orders of the Board, except such orders as define the scope and issues of a proceeding.

In response to one of the two comments received concerning various minor aspects of the proposed rule, certain changes have been made in the attached final rule. Thus, while the notice excluded from the prohibition against the filing of petitions for reconsideration only those interlocutory orders defining the scope and issues of a proceeding, the exclusion in the final rule has been broadened so that interlocutory orders which either institute a proceeding or suspend a provision contained in any tariff filed with the Board will not fall under the prohibition. Such action has been taken in order to forestall any misunderstanding concerning the Board's intent to permit the filing of petitions for reconsideration, as of right, which are directed against Board orders of this nature because the orders have a definitive and final impact upon the air carrier concerned. The attached final rule has been further clarified by the adoption of an explanatory note to § 302.18 advising that it will not be construed as authorizing the filing of motions in the nature of a petition for reconsideration.

Interested persons have been afforded an opportunity to participate in the formulation of this rule and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends the rules of practice in Economic Proceedings (14 CFR Part 302) effective April 10, 1962, as follows:

§ 302.18 [Amendment]

1. By adding an explanatory note to § 302.18(a) to read as follows:

NOTE: This paragraph is not construed as authorizing motions in the nature of petitions for reconsideration.

2. By amending § 302.37(a) to read as follows:

§ 302.37 Petitions for reconsideration.

(a) *Board orders subject to reconsideration; time for filing.* Unless an order or a rule of the Board specifically provides otherwise, any party to a proceeding may file a petition for reconsideration, rehearing or reargument of (1) a final order issued by the Board or (2) an interlocutory order issued by the Board which institutes a proceeding or defines the scope and issues of a proceeding or suspends a provision of a tariff on file with the Board. Unless the time is shortened or enlarged by the Board, petitions for reconsideration shall be filed, in the case of a final order, within twenty (20) days after service thereof, and, in the case of an interlocutory order, within ten (10) days after service. However, neither the filing nor the granting of such a petition shall operate as a stay of such final or interlocutory order unless specifically so ordered by the Board. Within ten (10) days after a petition for reconsideration, rehearing, or reargument is filed, any party to the proceeding may file an answer in support of or in opposition to the petition. Motions for extension of time to file a petition or answer, and for leave to file a petition or answer after the time for the filing thereof has expired, will not be granted by the Board except on a showing of unusual and exceptional circumstances, constituting good cause for movant's inability to meet the established procedural dates.

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply sec. 1001, 72 Stat. 788; 49 U.S.C. 1481)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 62–2760; Filed, Mar. 21, 1962; 8:48 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1097; Amdt. 411]

PART 507—AIRWORTHINESS DIRECTIVES

Hiller UH–12D and UH–12E Helicopters

Pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), an airworthiness directive was adopted on March 2, 1962, and made effective immediately because of the safety emergency involved as to all known United States operators of Hiller UH–12D and UH–12E helicopters. Several inflight failures of Hiller UH–12D and UH–12E helicopters transmissions have resulted from lubrication deficiencies. The directive requires special operating procedures limitations and modifications.

Since it was found that immediate corrective action was required in the interest of safety, notice and public procedure thereon were impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Hiller UH–12D and UH–12E helicopters by individual telegrams dated March 2, 1962. It is hereby published in the FEDERAL REGISTER as an amendment to § 507.10 (a) of Part 507 (14 CFR Part 507), to make it effective as to all persons:

HILLER. Applies to all Model UH–12D helicopters and Model UH–12E Serial Numbers 942, 954, 2001 through 2198 inclusive.

Compliance required as indicated.

(a) Prior to next flight install placard in cockpit in full view of pilot to read as follows:

"Oil Warmup Procedure: 1. After Start Idle at 1,450 r.p.m. in Flat Pitch. A. If Oil Temperature Is Less Than 20° C., Idle Engine for a Minimum of Four Minutes. Continue Idle as Necessary Until Oil Temperature Reaches 20° C. B. If Oil Temperature Is Greater Than 20° C., Idle Engine for Two Minutes. 2. Complete Warmup at 2,350 r.p.m. Until Oil Temperature Reaches 40° C. Shut-Down Procedure: After Main Rotor Blades Come to Rest Crank Engine 20–25 Seconds With Magneto Switch Off."

(b) Within 10 hours' time in service after effective date of this directive and every 25 hours' time in service thereafter until accomplishment of paragraph (d), inspect the first and second stage planetary system in the transmission in accordance with Hiller Service Information Letter 3028 and at time of first inspection install ring gear spacer baffle P/N 23652 as described therein. Replace parts showing evidence of overheating or abnormal wear prior to further flight.

(c) Within 10 hours' time in service after effective date of this directive install placard in cockpit in full view of pilot to read as follows:

"Operation of Helicopter in Ambient Temperatures of −10° F., −23° C., or Colder Is Prohibited."

This placard may be removed upon accomplishment of paragraph (d).

(d) Within 100 hours' time in service after effective date of this directive modify transmission and lubrication system to incorporate additional lubrication provisions for the transmission. Conduct modification in accordance with Hiller Service Bulletin 2026.

NOTE: The inspection and baffle installation specified in paragraph (b), are included in and required as part of Service Bulletin 2026.

(Hiller Service Information Letters 3027 dated January 19, 1962, 3028 dated February 2, 1962, 3029 dated February 14, 1962, and Service Bulletin 2026 dated February 26, 1962, cover this same subject.)

This amendment shall become effective upon publication in the FEDERAL REGISTER for all persons except those to whom it was made effective immediately by telegram dated March 2, 1962.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on March 15, 1962.

GEORGE C. PRILL,
Director, Flight Standards Service.

[F.R. Doc. 62–2720; Filed, Mar. 21, 1962; 8:45 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 115—PROCEDURES FOR REVIEW OF CERTAIN NUCLEAR REACTORS EXEMPTED FROM LICENSING REQUIREMENTS

Provisional Operating Authorization

The Atomic Energy Commission has adopted a corrective amendment of 10 CFR 115.45 to eliminate the presently stated requirement for a finding of financial qualification of an applicant for a provisional operating authorization for a facility under Part 115 of the Commission's regulations. Part 115 governs the public procedures for Commission issuance of authority for the construction and operation of a Commission reactor which is not located at a Commission installation and is to be operated as part of the power generating facilities of an electric utility system.

The standards for provisional construction and operating authorizations in 10 CFR 115.30 make no reference to financial qualifications as a guide in Commission consideration of an application for a construction and operating authorization for a Commission-owned reactor. 10 CFR 115.45, which states the findings required for the issuance of a provisional operating authorization, inadvertently includes a finding that the applicant is "financially qualified" to engage in the activities to be authorized.

Since 10 CFR Part 115 applies to Commission-owned nuclear reactors operated by Commission contractors, a finding of financial qualification of the operating organization is unnecessary. The requirement of a finding of financial qualification has therefore been deleted from 10 CFR 115.45.

Because of the corrective nature of this amendment and the fact that it eliminates a presently stated requirement, the Commission has found that notice of proposed rule making and public procedure thereon are unnecessary, and that good cause exists why this rule should be made effective without the customary period of prior notice.

Notice is hereby given that pursuant to the Administrative Procedure Act and the Atomic Energy Act of 1954, as amended, the following rule is published to be effective on publication in the FEDERAL REGISTER.

Subparagraph (3) of § 115.45(b) is amended to read as follows:

§ 115.45 Provisional operating authorization.

* * * * *

(b) * * *

(3) The applicant is technically qualified to engage in the activities authorized by the provisional operating authorization in accordance with the regulations in this chapter; and

* * * * *

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

Dated at Germantown, Md., this 9th day of March 1962.

For the Atomic Energy Commission.

WOODFORD B. MCCOOL,
Secretary.

[F.R. Doc. 62-2719; Filed, Mar. 21, 1962; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 6637]

PART 13—PROHIBITED TRADE PRACTICES

Elliot Knitwear, Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185-90 *Wool Products Labeling Act.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, Elliot Knitwear, Inc., et al., New York, N.Y., Docket 6637, Oct. 24, 1961]

In the Matter of Elliot Knitwear, Inc., a Corporation, Elliot Import Corporation, a Corporation, Herman Gross, Individually and as an Officer of Said Corporations, and Herman Gross and Samuel I. Gross, Individually and as Copartners Doing Business as Elliot Glove Company

Order—following remand of a review proceeding by the Court of Appeals for the Second Circuit for additional evidence to support a finding that "the label as a whole is deceptive"—requiring New York City distributors of wool products, including sweaters, to cease violating the Wool Products Labeling Act by using the word "Cashmora" on labels, etc., attached to any wool product containing no cashmere but permitting its use on woolens containing a substantial amount of cashmere if accompanied by clear disclosure of the percentage of cashmere content.

The order to cease and desist is as follows:

It is ordered, That the respondents Elliot Knitwear, Inc., and Elliot Import Corporation, both corporations, and their officers, and Herman Gross, individually and as an officer of said corporations, and respondents' respective agents, representatives, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of wool products, as "wool products" are defined in and subject to the Wool Products Labeling Act, do forthwith cease and desist from misbranding such products by using the word "Cashmora" or any word of similar import on any stamp, tag or label attached to any wool product that is not made or composed of cashmere: *Provided, however,* That this shall not be construed as prohibiting use of the word "Cashmora" on a stamp, tag or label attached to a wool product composed in substantial part of cashmere if such word is accompanied by a clear and conspicuous statement of the percentage by weight of the cashmere contained therein.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is further ordered, That the respondents Elliot Knitwear, Inc., and Elliot Import Corporation, both corporations, and Herman Gross, individually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist contained in the supplemental initial decision on remand of proceeding.

Issued: October 24, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-2722; Filed, Mar. 21, 1962; 8:45 a.m.]

[Docket No. 8394 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Kenmont Hat Co., Inc., and Isadore Herman

Subpart—Concealing, obliterating or removing law required and informative marking: § 13.510 *Foreign source.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Kenmont Hat Co., Inc. et al., New York, N.Y., Docket 8394, Oct. 24, 1961]

In the Matter of Kenmont Hat Co., Inc., a Corporation, and Isadore Herman, individually and as an Officer of Said Corporation

Consent order requiring New York City distributors of hats to retailers to cease selling finished hats converted from imported bodies with nothing to show the foreign country of origin, since the words showing the foreign country had been removed by shearing off the edges of the brims.

The order to cease and desist is as follows:

It is ordered, That Respondents Kenmont Hat Co., Inc., a corporation, and its officers, and Isidor Herman, individually and as an officer of said corporation, and Respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hats, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling hats containing fur or wool felt bodies which have been made in a foreign country unless such hats have a marking or stamping on an exposed surface of such conspicuousness as to be clearly visible to prospective purchasers of the hats and so placed and affixed as not readily to be hidden or obliterated, and of such a degree of permanency as to remain on the hats until consummation of consumer purchase thereof, revealing the foreign country of origin of such hat bodies;

2. Furnishing means and instrumentalities to others by and through which they may mislead the public as to the country of origin of such products.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That Respondents Kenmont Hat Co., Inc., a corporation, and Isidor Herman (erroneously named in the complaint as Isadore Herman), in-

dividually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: October 24, 1961.

By the Commission.

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

[F.R. Doc. 62-2723; Filed, Mar. 21, 1962; 8:45 a.m.]

[Docket No. C-14]

PART 13—PROHIBITED TRADE PRACTICES

Marie Antoinette, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices:* § 13.155-40 *Exaggerated as regular and customary.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely;* § 13.1108-45 *Fur Products Labeling Act.* Subpart—Misbranding or mislabeling: § 13.1185 *Composition;* § 13.1185-30 *Fur Products Labeling Act;* § 13.1212 *Formal regulatory and statutory requirements;* § 13.1212-30 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure; § 13.1845 *Composition;* § 13.1845-30 *Fur Products Labeling Act;* § 13.1852 *Formal regulatory and statutory requirements;* § 13.1852-35 *Fur Products Labeling Act;* § 13.1865 *Manufacture or preparation;* § 13.1865-40 *Fur Products Labeling Act;* § 13.1900 *Source or origin;* § 13.1900-40 *Fur Products Labeling Act;* § 13.-1900-40(b) *Place.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Marie Antoinette, Inc. et al., Austin, Tex., Docket C-14, Oct. 31, 1961]

In the Matter of Marie Antoinette, Inc., a Corporation, and Frank Fuccello and Mary Virginia Soderberg, Individually and as Officers of Said Corporation

Consent order requiring Austin, Tex., furriers to cease violating the Fur Products Labeling Act by labeling fur products falsely with respect to the country of origin of the fur; by failing to disclose on invoices the true animal name of fur, the country of origin of imported furs or when fur was artificially colored; by newspaper advertising which failed to disclose the names of animals producing certain furs, to set forth the terms "Dyed Mouton Lamb" and "Dyed Broadtail-processed Lamb" where required, and represented selling prices as reduced from regular prices which were in fact fictitious; by failing to maintain adequate records as a basis for price and value claims; and by failing in other respects to comply with labeling, invoicing, and advertising requirements.

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

It is ordered, That Marie Antoinette, Inc., a corporation and Frank Fuccello and Mary Virginia Soderberg, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of any fur product, or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

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

B. Falsely or deceptively labeling or otherwise falsely and deceptively identifying such fur product as to the country of origin of the imported furs contained therein.

C. Setting forth on labels affixed to fur products:

(1) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder, mingled with nonrequired information;

(2) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder, in handwriting.

D. Failing to set forth the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in the required sequence.

E. Failing to set forth the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder, on one side of the label.

F. Failing to set forth on labels the item number or mark assigned to a fur product.

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

2. Falsely or deceptively invoicing fur products by:

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

B. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

C. Failing to set forth the item number or mark assigned to a fur product.

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

A. Fails to disclose the name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide, and as prescribed under the rules and regulations.

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

C. Fails to set forth the term "Dyed Broadtail-processed Lamb" in the manner required when an election is made to use that term instead of the word "Lamb".

D. Fails to set forth the information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in types of equal size and conspicuousness and in close proximity with each other.

E. Represents directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of business.

4. Making pricing claims and representations of the types covered by subsections (a)(b)(c) and (d) of Rule 44 of the rules and regulations promulgated under the Fur Products Labeling Act, unless there is maintained by respondents full and adequate records disclosing the facts upon which such claims or representations are based.

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

Issued: October 31, 1961.

By the Commission.

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

[F.R. Doc. 62-2724; Filed, Mar. 21, 1962; 8:45 a.m.]

[Docket No. 8098 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Young Men's Shop of Washington, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices;* § 13.155-40 *Exaggerated as regular and customary.* Subpart—Misbranding or mislabeling: § 13.1280 *Price.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, The Young Men's Shop of Washington, Inc., et al., Washington, D.C., Docket 8098, Oct. 25, 1961]

In the Matter of The Young Men's Shop of Washington, Inc., a Corporation, and Martin B. Levy, and Jacob Wolk, Individually, and as Officers of Said Corporation

Consent order requiring Washington, D.C., retailers of men's and boys' wear-

ing apparel to cease making deceptive price and savings claims in advertising and labeling—such as ". . . Summer Suits Reg. $59.95 now $39.99", "Were $39.50 now $29.99", "Rayon Silk $59.50 Sale Price $39.99", etc.—when the higher prices thus set out were not regular retail prices.

The order to cease and desist is as follows:

It is ordered, That respondents The Young Men's Shop of Washington, Inc., a corporation, and its officers, and Martin B. Levy, individually and as an officer of said corporation, and Jacob Wolk, as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of men's or boy's clothing, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That any amount is respondents' customary and usual retail price of their merchandise, when it is in excess of the price at which said merchandise is usually and customarily sold at retail by respondents in the recent, regular course of business;

(b) That any savings are afforded from respondents' customary and usual retail prices in the purchase of their merchandise unless the price at which such merchandise is offered constitutes a reduction from the price at which it has been usually and customarily sold at retail by the respondents in the recent, regular course of business.

2. Using the term "Reg." or the word "Were" or any other term or words of the same import, in connection with the retail prices of their merchandise unless such prices are the prices at which the merchandise referred to has been usually and customarily sold at retail by respondents in the recent, regular course of business.

3. Misrepresenting in any manner the amount of savings available to purchasers at retail of their merchandise, or the amount by which the retail price of said merchandise is reduced from the price at which it is usually and customarily sold at retail by respondents in the recent, regular course of business.

It is further ordered, That the complaint be dismissed as to Jacob Wolk, individually.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents, The Young Men's Shop of Washington, Inc., a corporation; Martin B. Levy and Jacob Wolk, as officers of said corporation; and Martin B. Levy, individually, shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: October 25, 1961.

By the Commission.

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

[F.R. Doc. 62-2725; Filed, Mar. 21, 1962; 8:45 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter IX—Bureau of Public Roads, Department of Commerce

[BPR Order Thm-1]

HIGHWAY TRAFFIC REGULATION

A new Chapter IX, headed Bureau of Public Roads, Department of Commerce, is added to Title 32A to include BPR Order Thm-1—Highway Traffic Regulation, set forth below.

Sec.
1 Purpose.
2 Definitions.
3 Regulation of motor vehicle traffic on highways.
4 Establishing alternate highways.
5 Applicability.
6 Effective date.

AUTHORITY: Secs. 1 to 6 issued under sec. 401, 64 Stat. 1254, as amended; 50 U.S.C. App. 2253. Interpret or apply sec. 201, 64 Stat. 1248, as amended; 50 U.S.C. App. 2281, E.O. 10219, 16 F.R. 1983, 3 CFR 415; E.O. 10902, 26 F.R. 217; E.O. 10952, 26 F.R. 6577; E.O. 10999, 27 F.R. 1527.

Section 1. Purpose.

It is deemed necessary in the public interest and to promote the national safety and defense during the existence of a state of civil defense emergency to regulate, allocate, and promote the availability and use of all highways within the United States.

Sec. 2. Definitions.

The following terms when used in sections 1 to 6 have the following meanings:

(a) "Administrator" means the Federal Highway Administrator.

(b) "Civil defense emergency" means such emergency situations when proclaimed by the President of the United States or by concurrent resolution of the Congress, if the President in such proclamation, or the Congress in such resolution finds that an attack upon the United States has occurred or is anticipated.

(c) "Highways" includes all public roads, streets, bridges, tunnels, and appurtenances, including the entire area within the right of way.

Sec. 3. Regulation of motor vehicle traffic on highways.

(a) From and during the existence of a state of civil defense emergency, the Administrator, where he considers such action to be necessary, shall regulate motor vehicle traffic using the highways in such a manner as to facilitate the movement of priority motor vehicle transportation of persons and property, including motor carriers licensed or authorized to transport persons or property in over-the-road service.

(b) The regulation of motor vehicle traffic as provided for in paragraph (a) of this section may be administered by delegation through such agencies of the Federal, State and local governments as the Administrator may designate.

Sec. 4. Establishing alternate highways.

To assure availability of alternate highways to accommodate traffic, the regulation of which is provided under section 3, the Administrator shall utilize all available highways deemed safe for travel.

Sec. 5. Applicability.

The provisions of this regulation shall be applicable throughout the United States and the Commonwealth of Puerto Rico.

Sec. 6. Effective date.

This order is effective during the existence of a state of civil defense emergency proclaimed by the President of the United States or by concurrent resolution of the Congress and when so directed by or on behalf of the Administrator or in the absence of such specific direction immediately upon occurence of a national emergency due to enemy attack.

Dated: March 14, 1962.

Recommended:

REX M. WHITTON, *Federal Highway Administrator.*

Issued:

LUTHER H. HODGES, *Secretary of Commerce.*

[F.R. Doc. 62-2755; Filed, Mar. 21, 1962; 8:48 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 2—DELEGATIONS OF AUTHORITY

Sale of Loans With Guaranty of Payment

A new § 2.69 is added to read as follows:

§ 2.69 Delegation of authority to certain employees to exercise certain powers and functions of the Administrator with respect to the sale of loans with guaranty of payment.

This delegation of authority is identical to § 36.4600 of this chapter.

[SEAL] W. J. DRIVER, *Deputy Administrator.*

[F.R. Doc. 62-2811; Filed, Mar. 21, 1962; 8:50 a.m.]

PART 36—LOAN GUARANTY

Sale of Loans, Guarantee of Payment

A new centerhead and § 36.4600 are added to read as follows:

SALE OF LOANS, GUARANTEE OF PAYMENT

§ 36.4600 Sale of loans, guarantee of payment.

(a) The Administrator of Veterans Affairs hereby guarantees, in accordance with the provisions of this section, the payment of all loans sold by the Veterans Administration.

(b) Wherever the term "holder" appears in this section it shall mean the purchaser of a loan sold by the Administrator and any subsequent transferee or assignee of such loan.

(c) The holder of each loan sold subject to guaranty shall be deemed to have agreed with the Administrator as follows:

(1) To furnish the Administrator with notice of default within 30 days after a loan has become two full installments in default.

(2) To maintain on the real estate a lien of the dignity assigned or transferred to the purchaser by the Administrator.

(3) To maintain insurance in an amount sufficient to protect the security against risks or hazards to which it may be subjected to the extent customary in the locality, and to apply the proceeds of loss payments to the loan balance or to the restoration of the security, as the holder may in his discretion deem proper.

(4) To obtain a consideration equal to the fair market value of any real estate released from the first lien securing the loan, except where the loan will be paid in full, and to apply the entire consideration in reduction of the principal balance of the loan.

(5) To maintain the tax and insurance account as provided for in the loan instruments and to pay accrued taxes, special assessments, ground or water rents and premiums on fire or other insurance properly chargeable to the tax and insurance account.

(6) To submit to the Administrator notice of any suit or action or other legal or equitable proceeding to which the holder is a party (including a copy of every procedural paper filed on behalf of the holder or served on the holder), brought on or in connection with a loan sold under this section or involving title to, or other lien on, the property securing the loan, within the time that would be required if the Administrator were a party to the proceeding.

(7) To submit to the Administrator for prior approval any proposal to recast or extend the repayment terms of the loan.

(8) To take no action to accelerate the indebtedness or terminate the debtor's interest in the property without the prior approval of the Administrator.

(9) To make advances only for the maintenance and repairs reasonably necessary for the preservation of the security, or for the payment of accrued taxes, special assessments, ground or water rents, premiums on fire or other insurance against loss or damage to the property, or for other purposes approved in advance by the Administrator.

(10) To furnish the Administrator prompt notice of the cancellation of any repurchase endorsement or notice on the note or bond upon the payment in full of any loan sold pursuant to this section or of the release of the Administrator from liability to repurchase the loan.

(11) To maintain adequate accounting records and to provide the Administrator with such data relating to the loan as he may request incident to his determination of the amount payable in connection with a request for the repurchase of the loan.

(12) To service the loans properly in accordance with established practices.

(13) To permit the Administrator to inspect, examine or audit at reasonable times and places the records of loans which are subject to repurchase under this section.

(14) To sell any loan to the Administrator for the amount specified in paragraph (e)(1) of this section upon request of the Administrator if the loan is six (6) full installments or more in default.

NOTE: In any instance in which the holder desires Veterans Administration prior approval to a proposed action the holder may submit the facts to the Loan Guaranty Officer as provided in paragraph (i) of this section.

(d) The Administrator's guaranty liability under this section shall consist of and be limited solely to liability to repurchase the loan from the holder thereof whenever,

(1) The debtor is in default by reason of nonpayment of not less than two full installments and default has continued for three months or more on the date the holder submits its written request for repurchase by the Administrator; or

(2) The property securing the loan has been abandoned by the debtor; or

(3) The debtor has failed to comply with any other convenant or obligation of his loan contract and on the date of the holder's request for repurchase such failure has continued for more than 90 days after the holder's demand for compliance with the covenant or obligation, except that if the failure is due to nonpayment of real estate taxes the failure to pay when due has persisted for a continuing period of 180 days; or

(4) The Administrator determines, upon request of the holder to repurchase any loan, that such repurchase is in the best interests of the Government notwithstanding that the account is ineligible for repurchase under subparagraphs (1) through (3) of this paragraph.

(e)(1) A cash payment shall be made to the holder upon the repurchase of a loan by the Administrator and shall be an amount equal to the price paid by the purchaser when the loan was sold by the Administrator, less repayments received by the holder which are properly applicable to the principal balance of the loan, plus any advances made for the purposes described in paragraph (c)(9) of this section, but no payments shall be made for accrued unpaid interest. If, however, there has been a failure of any holder to comply with the provisions of paragraph (c) of this section the Administrator shall be entitled to deduct from the repurchase price otherwise payable such amount as he determines to be necessary to restore him to the position he would have occupied upon repurchase of the loan in the absence of any such failure. Incident to the repurchase by the Administrator, the holder will pay to the Administrator an amount equal to the balance, if any, remaining in the tax and insurance account.

(2) The holder shall be deemed to have received as trustee for the benefit of the Administrator any amounts received on account of the loan indebtedness subsequent to submitting its request to repurchase and shall pay such amounts to the Veterans Administration upon the assignment and delivery of the note, bond and security instruments to the Veterans Administration.

(3) The holder may be reimbursed at any time for any costs or expenses incurred by him which are approved in advance by the Administrator as being necessary to protect the Government's interests.

(f) Notwithstanding any other provision of this section, the Administrator shall be released from liability and shall not be obligated to repurchase any loan in respect to which:

(1) An obligor has been released from personal liability by any act or omission of the holder without the prior approval of the Administrator, except that a holder shall not be under any duty to establish the debt as a valid claim against the assets of the estate of any deceased or bankrupt obligor when such failure will not impair the validity or effectiveness of the lien securing the loan; or

(2) The holder has instituted foreclosure action against the property securing the loan without the prior approval of the Administrator, and such action has proceeded to the point where the judicial sale or sale under the power in the deed of trust has been held or the owner's interest in the property has been terminated by the holder by strict foreclosure, acceptance of a voluntary deed, or by other liquidation action; or

(3) Any material alteration has been made to the note, bond, security instrument, or installment sale contract after sale and delivery of the instruments by the Administrator to the purchaser.

(g)(1) Each employee of the Veterans Administration heretofore or hereafter appointed to or lawfully filling, any position designated in subparagraph (2) of this paragraph is hereby delegated authority within the limitations and conditions prescribed by law to exercise the powers and functions of the Administrator with respect to the sale, assignment, transfer, and repurchase of loans, including, but not limited to the offering of such loans for sale, the acceptance of purchase offers, the assignment or transfer of notes or bonds and security instruments evidencing the loans sold, granting the prior approval of the Administrator under this section, determining the eligibility of the loans for repurchase and to calculate and pay the

sum due the holder upon repurchase of the loan by the Veterans Administration.

(2) Designated positions:

Chief Benefits Director.
Director, Loan Guaranty Service.
Manager, Regional Office.
Director, Center.
Manager, Veterans Benefits Office, Washington, D.C.
Loan Guaranty Officer.
Assistant Loan Guaranty Officer.

(h) No waiver, consent, or approval required or authorized by this section shall be valid unless in writing signed by an employee of the Veterans Administration authorized in this section to act for the Administrator.

(i) Whenever prior approval or consent of the Administrator is desired in respect to an action to be taken by a holder of a loan, the holder may address such request to the Loan Guaranty Officer in the Regional Office or Center having jurisdiction over the area in which the real estate security is located.

(j) Notwithstanding any requirement, condition, or limitation stated in or imposed by this section concerning the sale and repurchase of loans, the Chief Benefits Director, or the Director, Loan Guaranty Service, within the limitations and conditions prescribed by the Administrator may take such action as may be necessary or appropriate to relieve undue prejudice to a holder, debtor or other person, which might otherwise result, as long as such action shall not impair the vested rights of any person affected thereby. If such requirement, condition, or limitation is of an administrative or procedural nature, such action may be taken by an employee authorized to act under paragraph (g) of this section.

(k) This section will apply to all loans sold by the Veterans Administration after the effective date of this section which were originated or acquired by the Administrator of Veterans Affairs under Chapter 37, Title 38, United States Code, or Title III of the Servicemen's Readjustment Act of 1944, as amended, except that it shall not apply to direct loans sold pursuant to section 1811(g) of Chapter 37, Title 38, United States Code.

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective March 22, 1962.

[SEAL] W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 62-2810; Filed, Mar. 21, 1962; 8:50 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 35—PHILATELY

PART 36—SPECIAL CANCELLATIONS

PART 37—PREPAYMENTS AND REFUNDS

PART 168—DIRECTORY OF INTERNATIONAL MAIL

Miscellaneous Amendments

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

I. In § 35.4 *Cancellations for philatelic purposes,* as published in 26 F.R. 11568, make the following changes:

A. Paragraph (b) is amended for the purpose of clarification to read as follows:

(b) *Plain cards or slips of paper.* Postmarks will not be placed on plain slips of paper or plain cards submitted for philatelic or other purposes.

NOTE: The corresponding Postal Manual section is 145.42.

B. Paragraphs (d) and (e) are added to reflect the procedure for postmarking of post cards, postal cards, and envelopes for philatelic purposes and the holding of such mail for postmarking on a particular date. As so added, paragraphs (d) and (e) read as follows:

(d) *Preparation requirements.* Post cards, postal cards, and envelopes submitted for philatelic or other purposes must bear complete addresses, and postage at the applicable rate, to be postmarked. See § 36.5(a) of this chapter for postage on mail to be canceled with a special cancellation. After they are postmarked they may be either dispatched or handed back to the person presenting them. This paragraph does not apply to any arrangements made by the Department under §§ 35.3 and 35.5.

(e) *Holding the mail.* Postmasters will not hold mail to comply with patron's requests that the mail be postmarked on a particular date, except as provided for under §§ 35.3 and 35.5.

NOTE: The corresponding Postal Manual sections are 145.44 and 145.45.

(R.S. 161, as amended, 5 U.S.C. 22, 39 U.S.C. 501, 2501, 2507, 2508)

II. In § 36.5 *Mail submitted for special cancellations,* as published in 26 F.R. 11570, paragraph (a) is amended to require a complete address on mail submitted for special cancellation. As so amended, paragraph (a) reads as follows:

(a) *Postage.* Mailers requesting that their mail be canceled with a special cancellation must affix first-class postage to the mail. The mail must bear a complete address. Stamps issued by foreign countries must not be placed on the mail.

NOTE: The corresponding Postal Manual section is 146.51.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 2508)

III. In § 37.1 *Postage payment,* as published in 26 F.R. 11570, amend subdivision (iii) of paragraph (b) (2) by striking out the reference to "§ 48.6" and inserting in lieu thereof "§ 48.5 of this chapter."

NOTE: The corresponding Postal Manual section is 147.122c.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501)

IV. § 168.5 *Individual country regulations,* as published in 26 F.R. 8728-8805, make the following changes:

In country "Portugal", under Parcel Post, make the following changes to modify the regulations governing consular and commercial invoices for parcel post.

1. Amend the item *Observations* to read as follows:

Observations. Articles containing serums and vaccines must be conspicuously labeled to show the nature of the contents in order that they may be given preferred treatment.

Senders of parcels which involve foreign exchange (i.e., commercial shipments) must send to a Portuguese consulate three copies of the consular invoice and one copy of the commercial invoice which the mailer must certify as correct and sign. The consulate returns one copy of the consular invoice to the mailer, who should send it direct to the addressee by letter.

Portuguese consuls are located in the following cities:

Boston, Mass.	New Orleans, La.
Fall River, Mass.	New York, N.Y.
Honolulu, Hawaii.	Philadelphia, Pa.
Houston, Tex.	Providence, R.I.
Los Angeles, Calif.	San Francisco, Calif.
New Bedford, Mass.	

Parcels containing crude celluloid, motion picture films, or other articles of celluloid must be designated, both on the customs declaration and on the parcel itself, by a label bearing the word "Celluloid" in conspicuous black letters.

2. Amend the first paragraph of the item *Import restrictions* to read as follows:

Import restrictions. The attention of of senders should be called to the following requirements, which are to be met by addressees:

Import permits must be obtained for parcels regarded by the Portuguese authorities as commercial shipments.

(R.S. 161, as amended; 5 U.S.C. 22; 39 U.S.C. 501, 505)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 62-2753; Filed, Mar. 21, 1962; 8:48 a.m.]

PART 45—CITY DELIVERY

PART 113—TREATMENT OF OUTGOING POSTAL UNION MAIL

PART 121—OUTGOING PARCELS

PART 122—INCOMING PARCELS

PART 139—MAIL SENT VIA DEPARTMENT OF STATE

Miscellaneous Amendments

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

§ 45.6 [Amendment]

I. In § 45.6 *Apartment house receptacles,* as published in 26 F.R. 11579-11581, subparagraph (1) of paragraph (f) is amended by revising the address of Jensen Industries where it appears in the alphabetical list of manufacturers and distributors of vertical-type apartment house mail receptacles to read: "Jensen Industries, 1946 East 46th Street, Los Angeles 58, California."

NOTE: The corresponding Postal Manual section is 155.66.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501)

II. In Part 113—Treatment of Outgoing Postal Union Mail, as published in 26 F.R. 8702–8703, make the following changes:

A. Section 113.2 is amended to reflect revised and additional procedures for handling shortpaid and unpaid postal union mail at the mailing post office and in transit. As so amended, § 113.2 reads as follows:

§ 113.2 Shortpaid and unpaid.

(a) *At mailing office.* Mailing offices shall return shortpaid and unpaid articles to the sender for deficient postage, except the following:

(1) *Special-delivery.* Dispatch to appropriate exchange office, unless deficiency can be obtained without delaying the article.

(2) *Letter mail and post cards with return address at an office other than the mailing office.* Dispatch to appropriate exchange office.

(3) *Articles without return address.* Send letter mail and post cards to appropriate exchange office. Send "other articles" to proper dead letter branch.

(4) *Mail for Canada.* Endorse to show that postage due charges are to be collected from the addressee, as follows, and dispatch to appropriate exchange office:

(i) Double the amount of the deficient postage on ordinary (unregistered) letter mail and post cards.

(ii) The actual amount of the deficiency on ordinary "other articles" and on all registered mail.

(b) *In transit.* Sectional centers and other intermediate offices that rehandle transit mail shall not open made-up bundles to check the postage payment. However, if sectional centers or other intermediate offices should observe shortpaid mail originating in their immediate area (approximately 100 miles), the mail (except special delivery articles and all postal union mail addressed to Canada) shall be returned to the senders for the deficient postage. Use stock rubber stamp R–1300–230, "Return for additional postage."

(c) *Dispatch to exchange office of dead letter branch.* When articles are dispatched to exchange offices or to dead letter branches pursuant to paragraphs (a) and (b) of this section, apply stock rubber stamp R–1300–4, "Postage Due ____ Cents", but do not indicate the amount of shortpayment, except that mail for Canada shall be marked as prescribed in paragraph (a)(4) of this section. Dispatch articles by air when airmail is involved and by surface when surface mail is involved.

(d) *Credit for postage already affixed.* Credit is allowed for postage already affixed in figuring correct amount on articles returned to senders for deficient postage.

NOTE: The corresponding Postal Manual section is 223.2.

B. In § 113.4, paragraph (a) is amended to add a reference to § 114.3. As so amended paragraph (a) reads as follows:

§ 113.4 Forwarding.

(a) *International.* Articles will generally be forwarded to a new address of the addressee, even in a third country, or back to the United States. The sender may forbid forwarding by a notation on the envelope or wrapper in a language understood in the country to which addressed. See § 114.3 of this chapter concerning forwarding of mail of foreign origin.

NOTE: The corresponding Postal Manual sections are 223.2 and 223.4.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 505)

III. In Part 121—Outgoing Parcels, as published in 26 F.R. 8704–8708, make the following changes:

§ 121.2 [Amendment]

A. In § 121.2 *Packing, preparing and mailing* make the following changes:

1. In paragraph (b), subparagraph (4) is amended to show that there is no minimum weight limit for international parcel post. As so amended, subparagraph (4) reads as follows:

(4) *Weight limits.* For weight limits applicable to each country or destination, see individual country items in § 168.5 of this chapter. There is no minimum weight limit for international parcel post.

2. In paragraph (d), subparagraph (3) is amended to include the rates for surface parcels. As so amended, subparagraph (3) reads as follows:

(3) *Postage rates.* Parcel post rates to the various countries of destination are shown in the individual country items in § 168.5 of this chapter. The rates for surface parcels are 80 or 90 cents for the first 2 pounds and 30 or 35 cents for each additional pound, a fraction of a pound being charged as a full pound. Air parcel rates are on the basis of each 4 ounces, a fraction of 4 ounces being charged as a full 4 ounces. The weight of the customs declaration and other postal forms will not be included with that of the parcel (surface or air) in determining the amount of postage required.

NOTE: The corresponding Postal Manual sections are 231.224 and 231.243.

§ 121.4 [Amendment]

B. In § 121.4 *Shortpaid,* make the following changes:

1. Amend the heading of paragraph (a) to read *"At mailing office."*

2. Redesignate paragraph (b) as paragraph (c), and insert a new paragraph (b) to prescribe the treatment of unpaid parcels observed in transit from the mailing office to the dispatching exchange office, to read as follows:

(b) *In transit.* Sectional centers and other intermediate offices rehandling parcels in transit shall not attempt to check the postage paid, but shall return to the senders any parcels observed to be totally unpaid.

3. Amend redesignated paragraph (c) for the purpose of clarification to read as follows:

(c) *Reported by exchange office.* Shortpaid parcels observed at exchange offices are dispatched to destination and a notice on Form 2947–A "Notice to Mailer—Irregularity in International Mail", is sent requesting that the deficiency be supplied to the exchange office. If the deficiency is not supplied, the exchange office will request the postmaster to collect from the sender.

NOTE: The corresponding Postal Manual section is 231.4.

§ 121.5 [Amendment]

C. In § 121.5 *Prohibitions and restrictions,* make the following changes for the purpose of clarification:

1. In paragraph (a), delete the last sentence of subparagraph (9).

2. Amend paragraph (b)(1) to read as follows:

(b) *Restricted articles*—(1) *Combustible liquids.* Combustible liquids having a flash point of 150° F. or lower but above 80° F. (Tag, open tester) may be sent to foreign countries generally in quantities not exceeding 1 quart in any one parcel, except that paints, varnishes, turpentine, and similar substances may be sent in quantities of less than 1 gallon in any one parcel. The container must be completely surrounded with sawdust, bran, or other absorbent material sufficient to take up all the liquid content. Each parcel containing a combustible liquid must be marked by the sender to indicate that the flash point is above 80° F.

NOTE: The corresponding Postal Manual sections are 231.511 and 231.521.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 505)

IV. In Part 122—Incoming Parcels, as published in 26 F.R. 8708–8710, make the following changes:

A. In § 122.1, amend paragraph (c) for the purpose of clarification to read as follows:

§ 122.1 Charges.

* * * * *

(c) *Storage.* The post office will collect 10 cents for each day, exclusive of Sundays and holidays, the addressee fails to take delivery of a parcel, beginning with the eleventh day after first delivery attempt has been made or first notice of available delivery has been issued. The charges are accounted for by affixing postage-due stamps to the parcel or to a postage-due bill and canceling. The same charge is applied on packages requiring formal customs entry that are held in post office custody or on post office premises awaiting customs clearance. For formal entry parcels, the charge will begin on the eleventh day after the date on which notice on Customs Form 3509 is mailed to the consignee (addressee), or on the eleventh day after receipt of the parcel at the office where it is to receive formal customs treatment if the customs notice has been issued at another customs port. Cooperation of customs officers should be solicited to enable post offices to collect any storage charges which may accrue on formal entry parcels. When an

addressee protests the rate or amount of duty assessed (see § 151.5(d)(5) of this chapter), the time required for the Customs Service to come to a decision in the matter is not counted. See § 122.5 (b)(4) regarding the marking of undeliverable parcels on which storage charges are due.

NOTE: The corresponding Postal Manual section is 232.13.

B. In § 122.3, paragraph (a) is amended to provide a uniform procedure for filing written authorizations which post offices receive in connection with international parcels addressed to banks for delivery to a second addressee. As so amended, paragraph (a) reads as follows:

§ 122.3 Delivery.

(a) *Parcels addressed through bank or other organization.* If a parcel is addressed to a bank or other organization for delivery to a second addressee, the post office will notify both addressees of the arrival of the parcel and will then deliver it to the first addressee, or hold it if the first addressee so desires. If the parcel is held, the post office will deliver it to the second addressee, only with written permission from the first addressee, unless the sender has arranged for change of address as provided in § 137.6(b) of this chapter. After delivery, the post office will keep the written authorization 1 year, for reference in case of inquiry. File the authorizations (1) for insured and registered parcels with the addressees' receipts, (2) for ordinary dutiable parcels with the Customs Forms 3419, and (3) for ordinary nondutiable parcels in any appropriate place. If delivery to the second addressee involves forwarding the parcel to another post office, the parcel will be subject to forwarding postage as provided in § 122.4(a).

§ 122.4 [Amendment]

C. In § 122.4 *Forwarding* make the following changes:

1. Amend paragraph (b) for the purpose of clarification to read as follows:

(b) *To country of origin.* If the addressee has moved to the country of parcel's origin and no instructions are given to deliver to a second addressee in the United States, the post office will mark it "Moved", show the forwarding address of the addressee, and send by surface means (including parcels received by air) to the appropriate exchange office for return to the country of origin.

2. Paragraph (c) is amended to clarify the procedure for forwarding parcels when the addressee has moved to other than the country of parcel's origin. As so amended, paragraph (c) reads as follows:

(c) *To third country.* If the addressee has moved to another country (other than the country of parcel's origin), or if the parcel bears instructions to deliver it to an alternate addressee in a third country, the post office will hold the parcel and request instructions from the International Service Division, Bureau of Transportation, Post Office Department, Washington 25, D.C. The request should include the names and addresses of the sender and the addressee, or the alternate addressee, the weight of the parcel, whether ordinary, registered, or insured, and nature and value of the contents as shown on the customs declaration, in order that the International Service Division may communicate with the foreign postal administration to secure forwarding postage. If the sender has indicated that the parcel is to be treated as abandoned if undeliverable as addressed, dispose of it as prescribed in § 122.5(b)(3). See § 122.5(a)(2) concerning domestic third- and fourth-class parcels addressed to persons who have moved to another country.

NOTE: The corresponding Postal Manual sections are 232.42 and 232.43.

§ 139.2 [Amendment]

V. In § 139.2 *Mailing conditions,* as published in 26 F.R. 8715 make the following changes:

A. Paragraph (a) is amended to show the correct form of address for sending mail to United States Government personnel stationed overseas. As so amended, paragraph (a) reads as follows:

(a) *Addressing.* The following approved form of address should be used:

Name _____,
Foreign city (omit name of country),
Department of State,
Washington 25, D.C.

NOTE: The corresponding Postal Manual section is 249.21.

B. Paragraph (c) is amended to show that packages containing both prints and articles of merchandise are subject to international parcel post rates. As so amended, paragraph (c) reads as follows:

(c) *Postage rates.* Although the articles are addressed "Department of State, Washington 25, D.C.", postage must be paid at the international rate to the country where the addressee is located. Packages containing both prints and articles of merchandise are subject to international parcel post rates.

NOTE: The corresponding Postal Manual section is 249.23.

C. In paragraph (d), subparagraphs (1), (2), and (6) are amended for the purpose of clarification and to include the increased weight and size limits applicable to packages of prints and packages containing merchandise. As so amended, subparagraphs (1), (2), and (6) read as follows:

(d) *Limitations.* (1) Letters may be prepaid at the surface or airmail rate, but a letter to be transmitted by air must not exceed 1 ounce in weight. A letter exceeding this weight limit will be sent by surface means from Washington, D.C., even though airmail postage at the international rate has been paid.

(2) Prints and parcel post are acceptable for surface transmission only, except as provided in subparagraph (3) of this paragraph. Packages of either prints or parcel post may not exceed 40 pounds in weight or measure more than 24 inches in length and 62 inches in length and girth combined. Packages must be securely and substantially packed.

* * * * *

(6) Nothing which is generally prohibited in the mail will be accepted. (See §§ 111.3 and 121.5 of this chapter.) In addition, the State Department prohibits tobacco products (except to selected foreign service posts), liquids, perishables, firearms, glass, and other fragile articles, as well as parcels intended for delivery to a third person.

NOTE: The corresponding Postal Manual sections are 249.241, 249.242 and 249.246.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 505)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 62-2754; Filed, Mar. 21, 1962; 8:48 a.m.]

Title 47—TELECOMMUNICATION

[Docket No. 13864; FCC 62-296]

Chapter I—Federal Communications Commission

PART 1—PRACTICE AND PROCEDURE

Applications for Voluntary Assignments or Transfers of Control

1. On December 7, 1960, the Commission issued a notice of proposed rule making looking toward the modification of its procedures relating to applications for voluntary assignments or transfers of control. In brief, the Commission proposed that such applications be subjected to more careful scrutiny than in the past for the purpose of determining whether such transfers or assignments result from practices which are inconsistent with the duties and responsibilities of broadcast licensees and incompatible with broadcasting in the public interest.

2. It is clear that, under the Comsibilities of a licensee include the following:

(a) A duty not to speculate, barter, or trade in licenses (hereinafter referred to as "trafficking"), to the detriment of the public interest; and

(b) A duty, in the light of the specific circumstances and needs of the area which a licensee serves, to render a meritorious program service.

3. These principles of licensee responsibility make it clear that the accelerated trend in the sale of broadcast properties which has been occurring since 1955, presents serious questions for the Commission's determination. The facts concerning this trend are set forth in Appendix A below, together with relevant statistical data establishing (a) the high ratio (45%–53%) of transfer and assignment applications involving short-term ownership; and (b) the appreciable number of such applications affecting numerous communities throughout this country.

4. In our view, the appreciable number of such applications involving short-term ownership of stations in numerous communities compounds the problem of the accelerated trend in the sale of

broadcast properties, and presents an important public interest question of whether numerous communities throughout this country are being deprived of the benefits which we believe, based upon our experience, come from sustained station ownership. The licensee is under a continuing duty to make a good faith effort to implement the proposals made in his application. KORD, Inc., 21 R.R. 781. But experience has demonstrated that time is needed to fully or substantially implement the proposals or to gain a better understanding of the program needs and desires of the community and to adjust programming to such needs and interests. Where the licensee seeks to sell his station after only a short period of time, all these efforts may be frustrated or cut-off in midstream; the new owner may have to gain his own insight and experience in this critical area.

5. As to "trafficking," the Commission is seriously disturbed over the very high ratio of transfer and assignment applications involving short-term ownership of stations in numerous communities. It believes that it has a special obligation to insure that such short-term assignment or transfer applications do not constitute trafficking in licenses. An applicant who seeks to dispose of his license within the first few years encompassed by his initial license period obviously warrants special scrutiny. There are thus two considerations—"trafficking" and disruption, perhaps leading to deterioration in programming during this critical formative period (Paragraph 4, supra). In the Commission's view, either of these considerations would support the remedial action which we have determined to take (Paragraph 6, infra). Taken together, the Commission believes that they clearly call for such action. In short, the accelerated trend in the sale of broadcast stations, compounded by the appreciable number of short-term sales of stations in numerous communities, presents a general problem affecting licensee responsibilities, which is of such magnitude to require this Commission to establish immediate and effective remedial procedures.

6. We intend to embark upon a program of intensified scrutiny of proposed transfers or assignments which occur within a short period. We recognize, of course, that various changes in circumstances may create hardships necessitating a station's sale, remove any question of "trafficking" and justify a transfer, in terms of private equity and public interest, despite any disruptive effects which might otherwise result from short-term changes in ownership. In the absence of a showing of such circumstances, however, we believe that the transfer or assignment of a broadcast license held for a short time is prima facie inconsistent with the duties of the licensee and the public interest. The questions raised are substantial and material enough to require exploration in a hearing. Moreover, we believe it vital that our intensified scrutiny apply evenhandedly to all licensees. For this reason, it is appropriate to fix a uniform period, within which proposed transfers or assignments will be regarded as raising substantial questions of trafficking or undue disruption. We are persuaded that three years is an appropriate benchmark. The Congress, taking into account both the need for maintenance of public control over the spectrum and the need for stability and continuity in station ownership, has limited broadcasting licenses to a maximum three-year period. Our own experience, moreover, has led us to issue regular licenses for this period in all the broadcasting services.

7. By the proposed procedures, an applicant seeking Commission consent to a transfer or assignment of a station held for less than three years will be required to make a compelling affirmative showing of unforeseen changed circumstances or of hardship—more or less beyond his control—for a grant of the application without hearing. Absent such showing the Commission will, in accordance with its proposed modification of procedures, designate an application involving a station held less than three years for hearing, to fully explore and test, through the Commission's hearing procedures, the material and substantial questions presented as to the extent of the licensee's compliance with its responsibilities, and the effect of the transfer or assignment upon the public interest. In the Commission's view, the policing of these duties and responsibilities of licensees, with maximum emphasis on requiring compliance to be developed and tested through the hearing process, will have salutary effects. This new procedure will afford the Commission an opportunity for reaching sound judgments on the issue of whether a licensee has complied with the responsibilities delineated in Paragraphs 3–5, supra. Only in this way will the Commission be able to develop the full facts in this critical area of the public interest. Further, as additional information and experience is gained, the Commission will be better able to judge whether there is need for more severe limitations to be placed on the sale of broadcast properties,[1] or whether some other quite different procedures should be adopted. It is expected, however, that our present action will be sufficient to deal with these problems. Finally, this procedure will serve as some deterrent to quick transfers by licensees tempted to traffic in licenses. The licensee who has engaged in activities suggestive of trafficking within this time period will now know that his trafficking activities will be fully explored at a hearing. The Commission wishes to make clear, however, that those applicants who have not engaged in such activities or in any conduct not inconsistent with the public interest should not be deterred because of the new remedial measures. Such applicants may still obtain grants, if they establish on the hearing record that a grant would serve the public interest (Paragraphs 8 and 11, infra). We recognize, of course, that such an applicant would prefer avoiding the expense and time, perhaps as much as a year, required for a hearing. But for the reasons we have stated, we believe that in the present circumstances we cannot make the public interest finding required under the Act without a hearing.

8. In the interest of clarity, the Commission desires to point out that it contemplates that by the built-in exception to the proposal relating to "changed circumstances, some applications involving stations held for less than three years will be granted without a hearing. Similarly, the Commission contemplates that such applications will also be granted after a hearing provided (a) there has been substantial compliance with the aforementioned principles of licensee responsibility, and (b) no other reasons require a denial. In short, we are simply stating that such applications (absent changed circumstances permitting a grant without hearing) will be more carefully examined and tested through the hearing process, than is otherwise possible.[2]

9. With respect to applications filed after the three year period, the Commission will also continue to examine carefully into the "trafficking" problem. However, the Commission recognizes that although the "time factor", standing alone, cannot dispose of the trafficking problem, the passage of time does, to some extent at least, lessen or diminish this problem. For this reason, the rule adopted herein includes a direction to the Chief of the Broadcast Bureau (a) to examine carefully such applications, on a case-to-case basis, to determine whether any characteristics of trafficking appear to be present; and (b) if so, to seek additional information, by letter inquiries to the applicants, similar to that which will be required

---

[1] Cf. the Staff Report of the Special Subcommittee on Legislative Oversight issued November 30, 1958; the Report of the Special Subcommittee on Legislative Oversight issued January 3, 1959; H.R. 11340, a bill introduced by Mr. Harris on March 23, 1960, "to promote the public interest by amending the Communications Act of 1934, to place certain additional limitations on the transfer of licenses, and for other purposes." See also, H.R. 1165 which was introduced on January 3, 1961 in the 87th Congress, and is identical in pertinent respect with H.R. 11340. In this connection it is to be noted that there are substantial differences between H.R. 11340 and H.R. 1165, on the one hand, and the Commission's subject proposal, on the other. The proposed legislation would establish a rigid three year holding period as a statutory standard of public interest dispositive of applications.

[2] In this connection, the Commission wishes to point out that where a licensee has not held a station for three years, he should not:

(a) Surrender control of a station by artifice, such as for example, employment or other types of contracts with the Buyer, whereby the Buyer is retained as General Manager of the station, or as a consultant to the Seller; and

(b) Thereafter, defer filing an application for Commission consent to the transfer or assignment until after the expiration of the three year period in order to subvert the purpose of the rule.

Under circumstances such as this, applications filed after the three year period, present even more serious questions (a) concerning the character qualifications of a licensee, and (b) whether the transfer contravenes the provisions of section 310(b) of the Communications Act.

to be developed and tested in the hearing process with respect to stations held less than three years. Thereafter, where issues of trafficking remain, such applications will be designated for hearing by the Commission.

10. Paragraphs (a) and (d) of the attached rule embody these policies in the form of regulations. Paragraph (a) requires a licensee seeking Commission consent to a transfer or assignment of a station held for less than three years, to make a compelling affirmative showing of changed circumstances—more or less beyond the control of the licensee—for a grant without hearing. There is, of course, no easy formula by which every situation can be classified as to whether it does or does not constitute "hardship" or "changed circumstances." Every case must, of necessity, be decided on its own merits based upon a detailed factual showing by the applicant of all relevant and material facts. In section IV of this Report, we have discussed illustrative examples of what may or may not constitute "changed circumstances" or "hardship."

11. Absent a compelling affirmative showing of changed circumstances permitting a grant without hearing, paragraph (a) provides that the application shall be designated for hearing on issues which will be designed, on a case-to-case basis, to fully develop, to test, and to determine whether or not the licensee has complied with the aforementioned duties and responsibilities. Assuming, arguendo, that a transferor establishes, at a hearing that he has not engaged in trafficking, that he has made a good faith effort to fulfill his programming representations or adjust his programming to the needs of his area, that no unwarranted interruption or deterioration in programming service has occurred, or will occur, incompatible with broadcasting in the public interest, and that he has a valid reason for transferring the station after only a brief period of operation, it may reasonably be concluded that the application would be granted. Conversely, it is clear that where, after a hearing, there is substantial evidence that a transferor has engaged in "trafficking" or than an unjustified failure, interruption, or deterioration in the program service has occurred, or might occur, the Commission would, of necessity, deny such an application as contrary to the public interest. Thereafter, the Commission, in its discretion, may institute appropriate proceedings directed against the licensee.

12. Interested persons were given an opportunity to file comments on the Commission's original proposal, and over fifty comments have been received. With a few exceptions, the respondents object to the proposal, urging, however, that in the event the Commission nonetheless determines that the proposal is in the public interest, the proposed rule should be changed in a number of specific ways. A few respondents make a direct attack upon the legal validity of the proposal, contending that it transcends the authority contained in the Communications Act. The other objecting respondents appear to challenge the wisdom of the proposal, as a matter of policy, rather than its legality, and they call attention to certain hardships and inequities which it is alleged would result from the particular language of the rule proposed.

13. The Comments and our views thereon, together with the changes considered acceptable and included in the finalized rule, are, for convenience, grouped into five categories, discussed in sections of this report as follows:

I—Comments directed to the Commission's legal authority to adopt the proposed rule and to the need therefor.

II—Comments regarding the undesirability of the proposal, as a matter of policy.

III—Comments with regard to suggested alternative procedures.

IV—Comments concerning requested modifications of the proposed rule.

V—Summary of major changes included in finalized rule.

I—Comments Directed to the Commission's Legal Authority To Adopt the Proposed Rule and to the Need Therefor

14. In approaching this issue of the Commission's authority to adopt this rule, it is of significance that many of the respondents have misconstrued the rule by translating it, in effect, into the type of three year holding period limitation of H.R. 11340, constituting a statutory bar, to a grant of an application. (See, Footnote 1, supra.) Based upon this fundamental misconception, respondents contend that the Commission lacks authority to adopt the subject rule, following substantially the same arguments advanced by NBC and Storer, respectively, in National Broadcasting Co. v. United States, 319 U.S. 190 (1943), (network regulations), and Storer Broadcasting Co. v. United States, 351 U.S. 192 (1956), (maximum limitation on station ownership). In this connection, respondents assert, in effect, that the Commission has authority to adjudicate the problem of trafficking on a case-to-case basis, but that it has no choice but to wait until trafficking occurs and then hold hearings as each case arises.

15. Apart from the fact that the courts have repeatedly upheld the Commission's rule making authority in the face of such contentions, there are substantial differences between this rule, and the public interest standards established by the network and maximum limitation rules which are dispositive of applications. As shown by our discussion in paragraphs 7–11, supra, the Commission's subject rule is procedural only, to be used in passing upon applications. We are according every licensee the right to a hearing, whereas in the NBC and Storer cases, supra, the complainants objected to rules which denied them a hearing. Moreover, we believe that the Commission's basic rule making authority is applicable with even greater force, where we are, as here, simply adopting procedures which, by the hearing process, will afford the Commission the opportunity of making sound judgments with respect to a licensee's compliance with its duties and responsibilities. Certainly, there is nothing arbitrary in recognition of the facts that (a) the accelerated trend in the sale of broadcast stations, compounded by short-term ownership affecting numerous communities throughout this country, presents a general problem relating to licensee responsibilities; and (b) under these circumstances, such licensee responsibilities require testing through a hearing process (paragraphs 4–6, supra). The Commission could apply such a policy on a case-to-case basis, that is, as each case comes before the Commission, it could designate the case for hearing under a general policy. Since this is so, there is no reason why it cannot formalize this practice through the rule making process by announcing in advance the procedures it will follow in passing upon applications for transfers and assignments.

16. Respondents' principal contentions are that (a) the Commission has no authority to establish a mandatory hearing requirement; (b) the Commission's declared policy to hold hearings on such issues as displacement of personnel, disruption of operational continuity, and the impact of such events upon licensee responsibilities is inconsistent with the Commission's long established policy of expediting action on transfer applications because of these same business exigencies; (c) these business practicalities incident to the sale of stations render the mandatory hearing requirement meaningless; (d) there is no basis for the three-year period; and (e) statistics do not justify the Commission's concern with the problem of trafficking.

17. Each of these contentions, in our view, is lacking in merit. What we have said in Paragraph 15 above, disposes of the claim that the Commission lacks authority to establish, through its rule making authority, a mandatory hearing requirement to be applied to certain types of applications because they reflect or involve a general problem affecting licensee responsibilities. It is the Commission's further view that although a mandatory hearing requirement may constitute a deterrent to the filing of some transfer applications, this factor does not constitute a penalty against "legitimate" transfers as urged by respondents. (See Paragraphs 7 and 11, supra.) The Commission has not only a right, but a duty, under section 309(e) of the Act, to require any questions reasonably related to the public interest which cannot be resolved on the information in the application itself, to be explored through the hearing process. Under these circumstances, it is evident that there is no merit to a contention that the Commission's mandatory hearing requirement constitutes a breach of an alleged duty to grant an application, without hearing, under section 309(a). Section 309(a) relates only to applications where there are no public interest questions raised necessitating a hearing, and the Commission is therefore able to find, based upon the information in the application itself, that the public interest would be served by a grant.

18. Nor is there any merit to respondent's contentions that "business practicalities" render the mandatory hearing requirement meaningless, and that the

Commission's rule is at odds with its policy of expediting action on transfer applications. It appears that respondents have failed to recognize that the Commission, through its experience, has a familiarity with (a) the problems incident to station sales; (b) the potential effects of such problems upon licensee responsibilities; (c) the practices of licensees to gear time limitation periods for consummation of sales, not only to these business exigencies but, in addition, to Commission procedures and policies; and (d) the fact that, despite these business exigencies, hearings have been held in the past, and are presently being held, on transfer applications on such issues as multiple ownership, overlap, etc. Thus, we are familiar with the fact that the time limitation period for consummation of sales contracts is generally 90 to 120 days, because of business exigencies and of the time required for processing the application by the Commission. Our policy of according such applications expedited action, in recognition of these business practicalities, is certainly consistent with the public interest, where no questions are presented which require a hearing.

19. We also recognize that where a hearing is required by the Commission, sales contracts generally provide for an extension of the time limitation provision, for the same period required for a Commission hearing and a decision. Commission records reflect that where transfer applications have been designated for hearing on issues relating to such matters as multiple ownership, etc., the parties, in some instances, have not pursued the hearing and have cancelled the sales contract. However, Commission records also include instances where the parties have prosecuted their applications and have extended the time limitation provision of the sales contract for the period required for a Commission hearing and decision. Where the hearing is pursued, a licensee generally affords whatever assurances are necessary to station personnel, to program sources and to advertisers, in order to continue a program service compatible with the public interest. In our experience, the potential problems relating to station sales are not insurmountable and can generally be accommodated, when the Commission decides that a hearing is necessary. Indeed, at this juncture, licensees normally make whatever business arrangements are necessary to lessen the impact of the proposed sale upon continued station operations during the pendency of such a hearing.

20. Respondents' claim that there is no basis for the three year period is also lacking in merit. The three year period is significant only in identifying the applications which will be designated for hearing absent a showing of changed circumstances. Three years is a normal license period, even though variations in this period do occur because of other licensing policies. Moreover, we have previously made clear in paragraph 4, supra, that the appreciable number of short-term sales, involving stations located in numerous communities throughout the country, compounds the problem of the accelerated trend in the sale of broadcast properties, presenting an important public interest question of whether numerous communities are being deprived, by short-term ownership, of the benefits which we reasonably believe, based upon our experience, come from sustained station ownership.

21. For these reasons, we believe that the basis of the three-year period is a reasonable one as a means of identifying the applications which will be designated for hearing, absent a showing of changed circumstances.

22. Finally, we cannot agree with respondents' contention that statistics are necessary to justify the Commission's concern with the trafficking problem. The Commission does not need statistics showing that any appreciable number of stations are acquired for "trafficking" purposes to justify its concern with this problem. The Commission has expressed its concern over trafficking for years. In addition to the Commission's stated concern, there have been expressions of grave Congressional concern over the problem. (See Footnote 1, supra.)

23. Nor can we agree with the position of one respondent that the statistical data from the Commission's Annual Reports do not establish an accelerated trend in the sale of broadcast properties. In this connection, the Commission has noted that this one respondent quoted figures which are incorrect for the year 1955 with respect to "Total Transfers Granted." This respondent also failed to consider the relevant figures from the FCC Annual Reports relating to "Transfer Applications Received." In our view, the number of "Transfer Applications Received" is more indicative of the continued increase in the activity relating to the sale of broadcast properties, because the figures with respect to "Applications Granted" do not include those which are rescinded by voluntary agreement of the parties, or those which are set for hearing or which are denied by the Commission.

24. As stated in Paragraph 4, supra, the statistics set forth in Appendix A establish (a) the accelerated trend in the sale of broadcast properties; (b) the high percentage (over 50 percent) of applications filed for substantial changes in ownership involving short-term ownership; and (c) the appreciable number of such applications relating to short-term ownership which, in turn, involve numerous communities throughout this country.

II—Comments Regarding the Undesirability of the Proposal, as a Matter of Policy

25. The major arguments advanced by respondents concerning the undesirability of the Commission's proposal as a matter of policy are, in most part, geared to the private rights of broadcasters, to business exigencies, etc. As shown by the discussion in Paragraph 18, supra, the Commission recognizes these private rights and business exigencies, and accords them full consideration in making its overall public interest determinations. However, where a general problem exists which affects licensee responsibilites, then the Commission must subordinate these private concerns to more paramount public interest factors.

26. We have given careful consideration to respondents' contentions that the proposed new procedures will, in effect, constitute a deviation from our free enterprise system of broadcasting, and will discourage the investment of private venture capital in the broadcasting industry. These contentions ignore the fact that the broadcast industry is one affected with a public interest, and that this Commission, within the limits of the Communications Act, is charged with the basic responsibility of considering relevant aspects of the public interest in effectuating its licensing procedures and policies. In the face of the accelerated trend in the sale of broadcast properties and of the appreciable number of transfer applications involving short-term ownership of stations, we would be remiss in our responsibilities in administering the Communications Act, if we did not effectuate the new procedure here adopted.

27. The Commission agrees that trafficking, standing alone, is to a considerable extent a subjective problem, and that the Commission, of course, has adequate authority to deal with it on a case-to-case basis. But these considerations do not undermine the desirability of the general procedural policy we have adopted with respect to the particular problem of possible trafficking within the initial three-year period. Moreover, the Commission is concerned not solely with trafficking, but also with the effects upon licensee responsibilities of the accelerated trend in the sales of broadcast properties and of short-term ownership of stations (paragraph 4, supra). Our remedial rule is directed to both these policy considerations. As urged by the respondents the "time factor" of three-years, standing alone, cannot eradicate the trafficking problem. Accordingly, paragraph (d) has been added to the rule to make it clear that the Commission will continue to examine carefully the trafficking problem in connection with transfer and assignment applications involving stations held more than three years.

III—Comments With Regard to Suggested Alternative Procedures

28. Although all respondents agree that trafficking is incompatible with licensee responsibilities and contrary to the public interest, they nevertheless disagree profoundly on what should be done about this. Their views range from suggesting that we merely issue a statement of policy indicating that we will examine more carefully into the trafficking problem, to proposals for a full scale investigation into the entire subject of trafficking. The respondents marshalled a series of arguments, all geared to the private rights of broadcasters and business exigencies, to explain their preferences for some course of action which would include no immediate remedial procedures to test the compliance of licensees with their duties and responsibilities. The Commission rejects these

alternative suggested procedures which, in essence, are innocuous and do not meet (a) the real issue of the general problems of the accelerated trend in the sale of broadcast properties, of short-term ownership of stations, and of trafficking, affecting licensee responsibilities, and (b) the need for immediate and effective remedial procedures.

IV—COMMENTS CONCERNING REQUESTED MODIFICATIONS OF THE PROPOSED RULE

29. The respondents request a number of modifications of the rule, primarily in light of hardships and inequities which they allege would result from the particular language of the rule as proposed. The more important of these requests are discussed below.

30. With respect to the built-in exception to the rule relating to "changed circumstances" (paragraph (a)(3)), respondents claim that the scope of this exception should not be limited to extraordinary circumstances, but should include factors relating to "human equations." We have previously stated that: "There is, of course, no easy formula by which every situation can be classified as to whether it does or does not constitute 'hardship' or 'changed circumstances.' Every case must, of necessity, be decided on its own merits based upon a detailed factual showing by the applicant of all relevant and material facts."

31. With these general views in mind, we turn now to the additional exceptions of the rule sought by respondents. Contrary to their assertions, we believe that the following situations are lacking in merit as constituting changed circumstances sufficient to obviate the need for a hearing:

(a) Basic unhappiness in living conditions in a community or complete dissatisfaction with the broadcast business.

(b) Plans to expand and enter new larger markets.

(c) A cursory statement, without supporting facts, viz. "business reasons which could not be foreseen or predicted."

32. In the absence of an unusual showing, Exception (a) relates to situations which, generally speaking, can be avoided by a reasonable person, exercising reasonable prudence, prior to entering the broadcast business, or prior to moving to a new community. It would seem that the reasonably prudent person would become acquainted sufficiently with the broadcast business by some type of indoctrination, either as an employee or observer of other station operations, prior to becoming an owner of a station. Similarly, it would appear that the reasonably prudent person would become acquainted with a community in which he is thinking of buying a station by residing there temporarily prior to purchasing the station.

33. Exception (b), on its face, does not constitute a "changed circumstance" beyond the control of the licensee. For this same reason, we have concluded that the proposed exception for "death or disability of key management personnel" should be deleted. Such personnel, though important, are not indispensable or irreplaceable. Exception (c) is too vague, with too many variations and connotations. Obviously, this type of exception will have to be handled on a case-to-case basis in the interpretation of "other changed circumstances affecting the licensee or permittee occurring subsequent to the acquisition of the license or permit," provided for in paragraph (a)(3).

34. As urged, in substance, by the respondents, the Commission agrees that the following situations constitute "changed circumstances":

(a) Where a station is required to be sold because of a separation or divorce settlement, provided such settlement has been ratified or ordered by a Court decree.

(b) Where a licensee is transferring the station to members of his immediate family, as a gift, provided such transfer is not inconsistent with the Commission's multiple ownership rules.

35. With respect to the requested Exception (b) relating to gifts to immediate members of a family, this exception would not be applicable to a situation where a licensee desires to sell a station in less than 3-years to a third party for purposes of deriving funds to establish pre-testamentary gifts or trusts.

36. With respect to the exception "inadequacy of operating capital" included within paragraph (a)(3) of the proposed rule, respondents have pointed to the difficulties of administering such a standard. Of equal significance in the Commission's view is the fact that such a broad standard could be interpreted by a licensee to include his unwillingness, as a matter of business judgment, to risk more capital available from other sources. For these reasons, the Commission has deleted "inadequacy of operating capital" from paragraph (a)(3) of the new rule, and has substituted therefor the standard of "unavailability of capital", which obviously excludes the situation where a licensee has other substantial resources.

37. In accordance with the objection of respondents to the applicability of the three-year period to major changes in facilities as proposed in paragraph (b)(1), the Commission has amended this paragraph to provide that where initial operating authority is issued to cover the construction permit for a major change in facility, the commencement date of the three year period shall then revert back to the date the licensee received its original operating authority. By making this modification, the Commission believes that it has met the major objections of the respondents, but at the same time the modification would require construction of the "major change" prior to sale by the licensee, unless the licensee could meet the built-in exception of changed circumstances.

38. Certain respondents further claim that FM and UHF stations should be exempted from the requirements of the proposal. There is clearly no basis for the exemption of whole classes of stations from the paramount public interest considerations compelling the adoption of this rule. Similarly, there is no basis for the type of exemption sought by respondents in connection with paragraph (b)(4) relating to multiple owners. Paragraph (b)(4) applies only where a multiple owner desires to sell all his stations as a package, and under these circumstances, fair administration of the new rules requires that the date of acquisition of the last station shall be applicable to all such holdings.

39. Respondents have also requested that a termination date be specified in the rule for the purpose of calculating the length of time the station has been operated by the transferor. Accordingly, the Commission has, by new paragraph (c), added a provision which provides that in determining whether a broadcast interest has been held for three years, the Commission will calculate the period between the date of acquisition as specified in paragraph (b)(1) and the date the application for transfer or assignment is tendered for filing with the Commission.

V—SUMMARY OF MAJOR CHANGES INCLUDED IN THE FINALIZED RULE

40. In summary, editorial revisions have been made in the title of the rule. In addition to editorial modifications, there has been stricken from paragraph (a)(3) the following language: "Inadequacy of operating capital" and "or of key management personnel." In substitution for "inadequacy of operating capital," there has been inserted "unavailability of capital." Aside from editorial changes, paragraph (b)(1) has been amended by providing that where initial operating authority is issued to cover the construction permit for a major change in facility, the commencement date of the three year period shall then revert back to the date the licensee received its original operating authority. A new paragraph (c) has been added to provide for a termination date in calculating the three year period. A new paragraph (d) has been added with respect to the procedures relating to applications for Commission consent to transfers or assignments of a station held for more than three years. By paragraph (d) the Commission has made clear that, with respect to applications filed after the three-year period, it will continue to examine carefully into the problem of "trafficking", as more fully described above. All changes conform to the basic purposes of this proposal.

Order amending the Commission's rules and regulations. 41. Pursuant to the provisions of section 4(c) of the Administrative Procedure Act, amendments to the Commission's rules relating to non-substantive matters, may be made effective within less than thirty (30) days from the time the amendments are published in the FEDERAL REGISTER. This new rule shall therefore become effective on March 23, 1962, and shall be applicable to all applications filed thereafter. In this connection, the Commission desires to point out that although this new rule shall become effective within less than thirty (30) days, Notice of the Commission's instructions to the staff to prepare this Report and Order was made public on January 4, 1962, and the public therefore has had

knowledge of the general nature of the new rule for more than sixty (60) days.

42. In view of the foregoing: *It is ordered,* That Part 1 of the Commission's rules and regulations is amended to include new § 1.365 as set forth below.

It is further ordered, That said § 1.365 shall be effective and shall be applicable to all applications filed on or after March 23, 1962.

Authority for the adoption of the above amendment is contained in sections 4(i), 4(j), 303(r), 308(b), 309, and 310(b) of the Communications Act of 1934, as amended.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 303, 308, 309, 310, 48 Stat. 1082, 1085, 1086; 47 U.S.C. 303, 308, 309, 310)

Adopted: March 15, 1962.

Released: March 19, 1962.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Acting Secretary.

§ 1.365 Procedures on transfer and assignment applications.

(a) If, upon the examination, pursuant to sections 309(a) and 310(b) of the Communications Act of 1934, as amended, of an application for Commission consent to an assignment of a broadcast construction permit or license or for a transfer of control of a corporate permittee or licensee, it appears that the station involved has been operated by the proposed assignor or transferor for less than three successive years, the application will be designated for hearing on appropriate issues pursuant to section 309(b) of the Communications Act of 1934, as amended, unless the Commission is able to find that:

(1) The application involves a translator station only, a FM station operated for at least three years together with a Subsidiary Communications Authorization held for a lesser period; or

(2) The application involves a pro forma assignment or transfer of control; or

(3) The assignor or transferor has made an affirmative factual showing, supported by affidavits of a person or persons with personal knowledge thereof, which establishes that due to unavailability of capital, to death or disability of station principals or to other changed circumstances affecting the licensee or permittee occurring subsequent to the acquisition of the license or permit, Commission consent to the proposed assignment or transfer of control will serve the public interest, convenience and necessity.

(b) The commencement date of the three-year period set forth in paragraph (a) of this section shall be determined as follows:

(1) Where the authorizations involved in the application consist of a license and a construction permit authorizing a major change in the facilities of the licensed station (as defined in §§ 1.354, 1.355, and 1.356), the three-year period shall commence with the date of the Commission's grant of the construction permit for the modification. However, when operating authority has been issued to cover the construction permit for a major change in facility, the commencement date for calculating the length of time the station has been operated for purposes of this section shall then revert back to the date the licensee received its original operating authority. A grant of authority for minor modifications in authorized facilities shall have no effect upon the calculation of this time period.

(2) Where the authorization involved in the application consists of a permit authorizing the construction of a new facility, or a license covering such permit, the three-year period shall commence with the date of issuance of initial operating authority.

(3) Where the operating station involved in the application was obtained by means of an assignment or transfer of control (other than pro forma), the three-year period shall commence with the date of grant by the Commission of the application for said assignment or transfer of control. If the station was put in operation after such assignment or transfer, subparagraphs (1) and (2) of this paragraph shall apply.

(4) Where an application is filed for Commission consent to a transfer of control of a corporation holding multiple licenses and/or construction permits, the commencement date applicable to the last-acquired station shall apply to all the stations involved in the transfer, except where the application involves a FM station operated for less than three years and an AM station operated for more than three years, both serving substantially the same area. Said exception shall apply to the same circumstances where assignment applications are involved.

(c) In determining whether a broadcast interest has been held for three years, the Commission will calculate the period between the date of acquisition as specified above and the date the application for transfer or assignment is tendered for filing with the Commission.

(d) With respect to applications filed after the three-year period, the Chief of the Broadcast Bureau is directed (1) to examine carefully such applications, on a case-to-case basis, to determine whether any characteristics of trafficking remain; and (2) if so, to seek additional information by letter inquiries to the applicants, such as that which will be required to be developed and tested in the hearing process with respect to stations held less than three years.

[1] Statements of Commissioners Hyde, Bartley, and Cross filed as part of the original documents. Commissioner Craven dissenting.

APPENDIX A

STATISTICAL DATA REFLECTING ACCELERATED TREND IN SALES OF BROADCAST STATIONS

TABLE I—*Transfer applications received and granted based upon FCC annual reports*

Fiscal year ending June 30	AM granted	AM received	FM granted	FM received	TV granted	TV received	Totals	
							Granted	Received
1960	712	821	124	159	102	122	938	1,102
1959	806	917	103	112	99	101	1,008	1,130
1958	644	741	99	113	98	105	841	959
1957	636	681	78	74	120	132	834	887
1956	525	590	77	81	100	109	702	780
1955	[1] 506	562	69	67	122	124	[1] 697	753

[1] A respondent claimed erroneously these figures to be 982 and 1,173, respectively.

TABLE II—*Percentage of transfer applications received and granted as compared with authorized stations (including CP's Not On Air), based upon FCC annual reports*

Fiscal year ending June 30	AM	FM	TV	Total	Total transfers		Percent	
					Granted	Received	Granted	Received
1960	3,581	912	653	5,146	938	1,102	18.2	21.4
1959	3,500	769	667	4,936	1,008	1,130	20.4	22.9
1958	3,353	634	665	4,652	841	959	18.1	20.6
1957	3,238	560	651	4,449	834	887	18.7	19.9
1956	3,020	546	609	4,175	702	780	16.8	18.7
1955	2,840	552	582	3,974	[1] 697	753	[1] 17.5	18.9

[1] A respondent claimed erroneously these figures to be 1,173 and 29.5 percent.

STATISTICAL DATA REFLECTING APPRECIABLE NUMBER AND HIGH PERCENTAGE OF APPLICATIONS INVOLVING SHORT-TERM OWNERSHIP

	1960	1961
Number of applications acted upon by the Commission seeking substantial changes in ownership	416	376
Number of applications relating to stations held more than 3 years	205	207
Number of applications relating to stations held less than 3 years	211	169
Percent of applications involving stations held less than 3 years	53	45
Number of separate and different communities involved in applications relating to short-term ownership (stations held less than 3 years)	205	159

[F.R. Doc. 62-2764; Filed, Mar. 21, 1962; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Proposed Reapportionment of Committee Membership

Notice is hereby given that the Secretary of Agriculture is considering the approval of the following reapportionment of committee membership which was recommended by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113 and Order No. 946 (7 CFR Part 946; formerly Order No. 92, 7 CFR Part 992), regulating the handling of Irish potatoes grown in the State of Washington, issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposed reapportionment pursuant to § 946.31(b) of this part would remove the handler member and his alternate from District No. 2 and add one handler member and alternate to District No. 1 representation.

Consideration will be given to any data, views, or arguments pertaining thereto, which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington 25, D.C., not later than 10 days following publication of this notice in the FEDERAL REGISTER. The proposal is as follows:

Delete § 946.104 *Reapportionment of committee membership* (formerly § 992.-104, 7 CFR Part 992) and substitute in lieu thereof a new § 946.104 to read as follows:

§ 946.104 Apportionment of committee membership.

(a) On and after April 10, 1962, the membership of the State of Washington Potato Committee shall be apportioned among the 5 districts of the production area so as to provide the following representation: Four producer members and two handler members with their respective alternates from District No. 1; one producer member with his alternate from District No. 2; two producer members and one handler member with their respective alternates from District No. 3; two producer members and one handler member with their respective alternates from District No. 4; and one producer member and one handler member and their respective alternates from District No. 5. The producer member and his alternate from District No. 5 shall each be a certified seed producer.

(b) The terms used in this section shall have the same meaning as when used in Marketing Agreement No. 113 and this part.

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

Dated: March 19, 1962.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 62–2777; Filed, Mar. 21, 1962; 8:50 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Part 1195] [1]

[Docket No. AO 239–A1]

TYPE 62 SHADE-GROWN CIGAR-LEAF TOBACCO GROWN IN DESIGNATED PRODUCTION AREA OF FLORIDA AND GEORGIA

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

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Price and Production, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, with respect to a proposed amendment of Marketing Agreement No. 112 and Order No. 83 (7 CFR Part 983; 17 F.R. 4971, 5052, 5058; as suspended at 20 F.R. 585; 21 F.R. 648) regulating the handling of Type 62 shade-grown cigar-leaf tobacco grown in a designated production area in Florida and Georgia, hereinafter referred to collectively as the "order", to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the "act". Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D.C., not later than the close of business of the tenth day after publication hereof in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The public hearing, on the record of which the proposed amendment of the marketing agreement and order are formulated, was initiated by the Agricultural Stabilization and Conservation Service as a result of proposals submitted by growers and handlers of Type 62 tobacco covered by the currently suspended marketing agreement and order. In accordance with the applicable provisions of the aforesaid rules of practice and procedure, a notice that a public hearing would be held at the Gadsden County Courthouse in Quincy, Florida, beginning on January 22, 1962, was published in the FEDERAL REGISTER (26 F.R. 12528; 27 F.R. 121) on December 27, 1961, and January 5, 1962, respectively. The notice set forth the text of the order as proposed to be amended.

Material issues. The material issues presented on the record of the hearing were concerned with amending the order to:

(a) Change the definition of the term "prime", and eliminate the definition of the term "top";

(b) Change the composition of the membership of the Control Committee by (1) decreasing from 5 to 3 the number of members who shall be growers who are not handlers, (2) increasing from 4 to 7 the number of members who shall be growers and who are also handlers, and (3) decreasing from 2 to 1 the number of handlers who are not growers;

(c) Provide flexibility as to the time nominations of eligible members for consideration by the Secretary in selecting members who are to serve on the Control Committee during the fiscal period ending January 31, 1963 (in the event the proposed order is approved and becomes effective prior to that date), are to be submitted to the Secretary;

(d) Provide flexibility as to the time the Control Committee is required to consider, prepare, and submit to the Secretary a proposed marketing policy, including a report thereon, and require that the Committee concurrently submit to the Secretary proposed regulations, if any, with respect thereto, for the handling of Type 62 tobacco during the fiscal period;

(e) Require the Control Committee to give growers and handlers reasonable notice of the contents of each report on a marketing policy submitted by the Control Committee to the Secretary;

(f) Authorize the Control Committee to recommend to the Secretary regulations regarding the quantity of tobacco leaves that may be handled, such quantity to be in terms of the number of tobacco leaves per tobacco plant, and to provide that with respect to any recommendation by the Control Committee which relates to a modification in a regulation regarding the maximum number of leaves that may be handled, the Control Committee shall specify the number of leaves per plant which should be fixed by the Secretary;

(g) Fix, as the initial regulation, the number of tobacco leaves, in terms of the number of leaves per tobacco plant, that may be handled and authorize the Secretary to modify such number of tobacco leaves by separate regulations increasing

[1] Originally 7 CFR Part 983.

or decreasing, as the circumstances may warrant, the number of such leaves of tobacco plants that may be handled, and provide that the maximum number of leaves of tobacco plants grown in the production area in the calendar year 1962 or in any subsequent year that may be handled pursuant to the initial regulation shall be the number of leaves equal to the product of 18 multiplied by the total number of plants grown in the production area in such year;

(h) Consolidate the provisions of § 983.54(a) and § 983.61 of the order into a single section of the proposed order;

(i) Change paragraph (b) of § 983.55 of the order to paragraph (c) of such section, and to insert a new paragraph (b) regarding the procedure for the issuance of handling certificates;

(j) Provide a minimum period of time during which each handler and each subsidiary and affiliate thereof shall keep (retain) books and records required by § 983.60 of the order; and

(k) Provide for making other changes in the order as may be necessary to make the entire marketing agreement and order conform with any amendment thereof that may result from the hearing.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based upon the evidence adduced at the hearing and the record thereof, are as follows (numbers in parentheses are those used in the order as proposed to be amended, herein referred to as the "proposed order", which differ from those in the order):

(a) The term "prime" as defined in the order means to "pick tobacco leaves as they ripen, beginning at the bottom of the tobacco stalk and removing a few leaves at a time". The definition, taken literally, is possible of being interpreted to mean that tobacco leaves are required to be picked in exact order of appearance on the stalk, beginning at the bottom of the plant, in order for the term "prime" to be applicable. The record brings out that such an interpretation is not requisite to the regulatory program as proposed to be amended. The term "prime" should be defined as hereinafter set forth to mean "to pick tobacco leaves from tobacco stalks". As so defined, the term "prime" will serve the amended program realistically since the picking of tobacco leaves in exact sequence of appearance on the stalk is not always practiced. Under the provisions of the order (currently suspended), the 7 top leaves of a tobacco plant that has not been topped, and the 4 top leaves of a tobacco plant that has been topped, are not eligible for handling. While such provisions tended to effectuate the declared policy of the act during the years the program was operative until suspension, new strains of tobacco were developed which produced more leaves per stalk than the strains that were grown at the time the program became effective. During the period that the current program was not in suspension, it was of utmost importance that none of the top leaves as above discussed be handled. The definition of the term "prime" was thus designed to fit the then customary practice of picking the leaves as they ripened. Under the program as proposed to be amended, the record clearly shows that some leaves may not be picked but that a later-ripened leaf farther up the stalk may be picked, due to the natural desire of a grower to pick for handling the best leaves from any given plant within the permitted maximum number of eligible leaves.

Under the proposed order the term "top" will be irrelevant because, as the record shows, the program as proposed to be amended conditions nothing upon whether a plant is topped or is not topped, and such definition, therefore, should not be carried over into the proposed order.

(b) The composition of the Control Committee is recommended to be changed as set forth in the proposed order. The record makes clear that grower representation will be greater under the proposed order in that (1) the number of handler members who are not growers is reduced from 2 to 1, and (2) while the number of grower members who are not handlers is reduced from 5 to 3 with an increase from 4 to 7 in the number of members who are growers and are also handlers, the total number of members who are growers in some capacity is 10 rather than 9 as under the order. According to the record, this change in composition, along with the elimination of specific geographical distribution of membership requirements of the committee members, is necessary to accommodate the relative increase, since the order became effective, in the number of growers who are also handlers and to assure the availability of potential members for each membership category who would be eligible to serve on the committee. A considerable shift has occurred during the past ten years in which the number of growers who were not handlers have become growers who are also handlers. This shift, brought on partly by the formation of additional cooperatives, necessitates a decrease in the number of members of the committee who are growers only with a corresponding increase in the number of members who are growers and are also handlers, in order to assure equitable representation and availabilty of potential membership for the grower category and also for the category of growers who are also handlers. There is only one handler who is not a grower; hence the necessity of reducing the number of members in the handler category from 2 to 1. The geographical requirement in the order regarding membership eligibility, if carried over into the proposed order, would render ineligible some highly capable otherwise potential members and make it necessary to select members who in some instances would prefer that others serve on the committee rather than they.

(c) It was recommended in testimony at the hearing that paragraph (a) and paragraph (b)(3) of § 983.23 (§ 1195.23) *Nominations* be changed to read as in the proposed order. In the event the proposed order should become effective prior to January 31, 1963, the first fiscal period thereof will end on that date. It is not practical to provide any period of time within which nominees are to be submitted to the Secretary for selection to serve on the committee during such "initial" fiscal period for the reason that there is no way of determining now whether or when the proposed order may become effective. Should the proposed order be approved and become effective, it is to be assumed that nominations for committee membership will be made as promptly as possible thereafter so as to enable the Secretary to select the members of the "initial" committee. The successor members will, of course, be nominated and selected as provided in the order, the relevant provisions of which are carried over into the proposed order. The change in paragraph (b)(3) is simply to conform the wording therein to the recommended change in the number of handler members on the committee who are not growers. Accordingly, the provisions of the proposed order should reflect the foregoing.

(d) The record shows that the Control Committee should not be required to consider, prepare, and submit to the Secretary, a proposed marketing policy, including a report thereon, at the "beginning" of each fiscal period, as prescribed by § 983.50(a) of the order. In the event the order is amended as a result of this proceeding, a rigid time specification for the consideration, preparation and submission of a marketing policy for the fiscal period in which the proposed order became effective would be particularly burdensome. Hence, it is recommended that the phraseology of the section, in the proposed order, dealing with the marketing policy permit the performance of such duties as soon as practical after a fiscal period begins, thereby affording the committee adequate time for thorough deliberations.

The record further supports the expansion of this section to provide that the marketing policy and report thereon submitted by the Control Committee to the Secretary shall be accompanied by such regulations, if any, as may be recommended by the committee to be applicable to the handling of tobacco during the period covered by the marketing policy. Thus, growers and handlers will be informed as early as practicable in a fiscal period of possible regulations that may be in effect and thereby enable them to adjust their operations accordingly. The proposed order should so provide. The committee will thereby be afforded adequate time in which to carefully consider matters and information relevant to the preparation of a marketing policy and report thereon including the supply and demand for tobacco, tobacco prices at the grower level and handler level, trend and level of consumer income, and other relevant factors as set forth in the proposed order, and also to carefully develop proposed regulations for the handling of tobacco in line with the marketing policy.

(e) The provisions of paragraph (d) of § 983.50 of the order, relative to the notice required to be given by the Control Committee to growers and handlers with respect to the marketing policy report, should be the same as those of paragraph (d) of § 983.52 of the order regarding the notice required to be given by the committee to growers and handlers of each regulation, modification, suspension and termination. The record reflects that under the provisions of § 983.52(d) of the order which require that the committee "give reasonable notice—to growers and handlers", all such persons have consistently been apprised of the Secretary's actions pursuant to § 983.52 of the order. Similarly, growers and handlers, under the order, have been kept informed of the committee's marketing policy reports. It is recognized that full and adequate notice to growers and handlers with respect to the marketing policy report of the committee is of great importance. However, no useful purpose would be served for a continued requirement, in the proposed order, that all growers and handlers be notified of the committee's marketing policy report when the giving of reasonable notice by the committee has been very effective for notice purposes. Full and adequate notice thus being assured, no question should arise as to whether any difference in the method of giving notice is intended as between notification of the Secretary's regulations and of the committee's marketing policy reports. The notice requirements should be as hereinafter set forth.

(f) As the record shows, a change in paragraph (a) of § 983.51 of the order was recommended to provide that any recommendation by the committee to the Secretary regarding the quantity of tobacco leaves that may be handled shall be in terms of the number of leaves per tobacco plant, and that any such recommendation shall specify the number of leaves per tobacco plant which should be fixed by the Secretary. Evidence adduced at the hearing shows that limiting the handling of tobacco leaves to a fixed maximum of 18 leaves per tobacco plant would tend to effectuate the declared policy of the act. The amount of tobacco handled would be limited to the amount the market would take and the better quality leaves would be handled. The committee should also furnish the Secretary its recommendation of any modification it feels should be made in the number of leaves per tobacco plant that may be handled, in order that the Secretary may have the benefit of the committee's knowledge set forth in tangible form for his use in determining whether and the extent to which a change in the regulations limiting the handling of tobacco is justified. The provision contained in § 983.51(a) of the order providing that the committee's recommendations to the Secretary may be based on the location of leaves on the tobacco plant, with consideration to whether the tobacco plant was topped or was not topped, is not consonant with the provisions of the proposed order and should be eliminated. The proposed order implements these recommended changes.

(g) As supported by the record, paragraph (a) of § 983.52 (§ 1195.52) of the proposed order includes a provision that each regulation issued by the Secretary, upon his finding from the committee's recommendation or other information, that to limit the quantity of tobacco leaves (in terms of the number of leaves per tobacco plant) that may be handled would tend to effectuate the declared policy of the act, shall specify the maximum number of tobacco leaves that may be handled. Also, the section provides that any modification with respect to the maximum number of tobacco leaves may be accomplished by issuance of a separate regulation increasing or decreasing, as the circumstances may warrant, the number of leaves that may be handled. These provisions are necessary because they not only provide a fixed amount of tobacco leaves the handling of which will tend to effectuate the declared policy of the act, but also provide flexibility making it possible, through issuance of a separate regulation, to adjust the number of leaves that may be handled, up or down, as the circumstances warrant. It is possible that the present supply and demand situation for tobacco will change to an extent requiring a corresponding change in the number of tobacco leaves that may be handled, and it is essential that the Secretary be provided authority to make such a change as provided in the proposed order. The proposed order provides that the Secretary shall notify the committee of each such regulation or modification thereof, and the committee will be in position, therefore, to give notice thereof to growers and handlers as required by the proposed order. A provision contained in paragraph (a) of § 983.52 of the order, whereunder the location of leaves on the tobacco stalk could be taken into account by the Secretary in specifying the number of leaves that may be handled, should not be carried over into the proposed order to conform with the provisions of the proposed order under which the location of leaves on the tobacco plant is not pertinent.

Paragraph (c) of § 983.52 of the order should not be carried over into the proposed order. The provisions of paragraph (c) of the order are not necessary because they are not relevant or consistent with the provisions of the proposed order. Paragraph (c) prohibited the Secretary from issuing any regulation that would limit or prohibit the handling of more than (1) the seven top leaves of a plant that was not topped or (2) the four top stalk leaves of a tobacco plant that was topped. While such provision was applicable under the order, the proposed order does not contain any provision limiting the handling of leaves on the basis of where the leaves appear on the stalk or whether the tobacco stalk (plant) was topped.

The record shows that the better quality leaves on a tobacco plant normally are among the first 18 leaves primed. A survey report, submitted on behalf of the proponents of the proposed amendment of the order at the hearing and reflected on the record, shows that, on the basis of 16,083,882 pounds of tobacco handled from the 1959, 1960 and 1961 crops, 58.2 percent of the tobacco leaves primed and contained in the bottom 18 leaves consisted of the better quality tobacco. The balance of 41.8 percent of the tobacco leaves contained in the bottom 18 leaves consisted to a large extent of lower grade tobacco. In the tobacco consisting of the 19th leaf and leaves above the 19th leaf on the tobacco plant, only four-tenths of 1 percent consisted of the better quality tobacco. Tobacco of this lower grade represents tobacco only a nominal portion of which has a ready market with the result that the remainder overhangs the market and depresses the price of the better grades. The 16,083,882 pounds of tobacco were handled by 14 of the 22 handlers of Type 62 tobacco in the Florida-Georgia production area who handled tobacco for approximately 66 percent of the growers in such area. It is manifest from the record that, by limiting the handling of Type 62 tobacco as hereinafter provided in the proposed order, the desired quality of tobacco would be made available for handling (including a nominal amount of the lower grade tobacco for which there is a market), and that the amount of tobacco would be equitably apportioned among the producers and be in line with the amount of tobacco the market will take without depressing the price receivable by producers for the tobacco. By the uniform application of the maximum number of leaves per plant permitted to be handled, as provided in the proposed order, there would result an equitable apportionment among producers of the total quantity of tobacco permitted to be handled; and the record shows such to be the general belief. Thus, the proposed order would afford each grower the opportunity to make available for handling the same maximum number of the best leaves from his tobacco plants, within the tolerance provided.

Section 983.53 (§ 1195.53) *Initial regulation* of the proposed order fixes the maximum number of leaves of tobacco plants grown in the production area in the calendar year 1962 or in any subsequent year that may be handled at the number of leaves equal to 18 multiplied by the total number of plants grown in the production area in such year. Thus, such initial regulation has the effect of fixing a total quantity of tobacco leaves grown in the production area that may be handled, and such total quantity is consistent with the sum of the individual number of leaves per tobacco plant that may be certified by the committee as eligible for handling. It is consistent with the information contained in the aforementioned survey report.

(h) As supported by the record paragraph (a) of § 983.54 of the order should be eliminated since the effect of its provisions are repeated in § 983.61 of the order. Section 983.54(a) provides, in slightly different phraseology from that in § 983.61, that no handler shall handle tobacco except in accordance with the regulations. This is what § 983.61 also provides. The compliance provisions should appear in one place in the proposed order as hereinafter set forth so as to avoid confusion and possible misinterpretation.

(i) It is necessary that the committee know that tobacco leaves are eligible for handling before it can issue a handling certificate therefor. The expansion of § 983.55 (§ 1195.55) as provided in the proposed order, affords a definite basis on which the committee can determine whether tobacco leaves are eligible for handling.

There should be carried over into the proposed order a provision that any handler may handle tobacco leaves from the first three primings without a handling certificate because (1) there will be no instances where the first three primings will contain more than the maximum number of tobacco leaves permitted under the initial regulations in the proposed order to be handled and (2) there are not currently available enough barns to house simultaneously all primings of a tobacco crop. By the time all the tobacco leaves that are to be primed from a tobacco plant have been primed, the first one or two primings, and sometimes the third priming, are ready to be handled. It would be uneconomical for growers to build additional barns and delay the handling of the first three primings when the total number of leaves contained in the first three primings does not exceed the maximum number of leaves per plant initially permitted under the proposed order to be handled.

Before tobacco leaves from the fourth and subsequent primings can be handled, the handler should be required to obtain a handling certificate which has been issued by the Control Committee to the producer which covers the tobacco and which evidences that the tobacco covered thereby is eligible for handling.

Before the Control Committee can be in position to issue a handling certificate to a producer for particular tobacco leaves, it will be necessary to have the tobacco leaves and the tobacco field in which grown inspected in order to determine that the tobacco primed (fourth and subsequent primings) therefrom and to be handled is eligible for handling. While the initial regulation in the proposed order fixes the maximum number of tobacco leaves (in terms of the number of leaves per tobacco plant) eligible for handling, the practical aspects of priming tobacco are such that a tolerance is advisable whereunder as many as 2 leaves in addition to such maximum number of leaves may be primed from an individual plant without rendering tobacco leaves from such field ineligible for handling, provided, that the average number of leaves primed per plant in the field does not exceed the maximum number of leaves per tobacco plant that may be handled. The absence of such a tolerance would render it a very impractical operation because the labor used in picking tobacco leaves from tobacco stalks cannot be relied upon to exercise the care that would be necessary to limit the number of leaves primed from each and every plant to the maximum number of leaves permitted to be handled. Such tolerance of 2 leaves per plant is reasonable and should result in no abuse of the program. As hereinbefore stated, primings beginning with the 19th leaf contain some good grade tobacco, and it is consistent with the information in the survey report reflected on the record to conclude that the two additional leaves as a rule will be of fairly good quality.

To give effect to the proposal, the provision discussed in the following paragraph should be inserted as paragraph (b) of § 983.55 (§ 1195.55), and the present paragraph (b) of § 983.55 correspondingly designated as paragraph (c) of § 983.55 (§ 1195.55).

Upon application by a grower to the Control Committee for the issuance of a handling certificate for tobacco grown in a particular field, the committee shall issue such a certificate if it determines that the tobacco leaves involved are eligible for handling. Before issuing any such handling certificate, the committee should be required to have the tobacco inspected as well as the field in which grown and have on record a report of that inspection. In determining the number of tobacco leaves of a particular field eligible for handling and to be covered by a handling certificate, the committee should issue the handling certificate for the tobacco leaves in accordance with the following:

(1) To the extent that not more than the applicable maximum number of leaves per tobacco plant specified for the then current fiscal period were primed from each tobacco plant in such field and constitute the leaves to be certified; or

(2) To the extent that not more than such applicable maximum number of leaves per tobacco plant plus two additional leaves were primed from any tobacco plant in such field and of the tobacco leaves constituting the leaves to be certified the average number of leaves primed per tobacco plant does not exceed the applicable maximum number of leaves.

(j) As supported by the record, § 983.60 of the order should be amended in the proposed order to require that each handler and each subsidiary and affiliate thereof shall keep (retain), for a period of five years, such books and records as will clearly show the details of the respective person's handling of tobacco, including, but not being limited to, identification of the grower of the tobacco and the field in which produced, and which shall be available for examination upon request of the Secretary. This provision exists in the order except for the time above specified as the required period records are to be retained. Retaining the books and records for five years would cause no hardship to the persons required to retain them, particularly in view of the fact that the records are customarily retained even longer than five years by handlers. Even though such books and records are customarily retained by handlers for more than five years, such period of time (five years) is considered reasonable and adequate from the standpoint of need to examine them on the part of the Control Committee or of the Secretary, and no purpose would be served by specifying a longer period. Any question that may arise with respect to the handling of tobacco by any handler should be cleared up and any necessary action with respect thereto would have been taken before the expiration of such 5-year period. Some reasonable time limit such records are to be retained is desirable, however, and the proposed order so provides.

(k) The record contains the recommendation that conforming changes in the marketing agreement and order should be made, as necessary, to make the entire marketing agreement and order conform with any amendment thereof that may result from the hearing. Such conforming changes are reflected in the proposed order.

Reactivation. The record shows that it is the desire and intent of growers and handlers in the production area: (1) That the regulatory program governing the handling of Type 62 shade-grown cigar-leaf tobacco be amended as hereinafter set forth; and, should the Secretary issue an amended marketing order program, the issuance of which is approved by the requisite number of growers, (2) that the suspension of the current order be terminated, thus reactivating the program in its amended form. As hereinabove discussed, the production and marketing of Type 62 tobacco have changed during the past several years so that operations under the regulatory program in its present form would not now tend to effectuate the declared policy of the act. Moreover, operations under the order as herein proposed to be amended would be adapted to, and recognize, current production and marketing conditions and would tend to effectuate the declared policy of the act.

The proposed amended marketing agreement and order, as hereinafter set forth, embody both the provisions of the current order which are not being changed as a result of this promulgation proceeding and the new or modified provisions recommended herein. All of these provisions are necessary for operations under the proposed order and would constitute a suitable and workable program for Type 62 tobacco as would tend to effectuate the declared policy of the act.

General findings. (1) The marketing agreement as hereby proposed to be amended, and the order as hereby proposed to be amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement as hereby proposed to be amended, and the order as hereby proposed to be amended, regulate the handling of Type 62 shade-grown cigar-leaf tobacco grown in the designated production area of Florida and Georgia in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement, as hereby proposed to be amended, and the order as hereby proposed to be amended, are limited in their application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable

to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of Type 62 shade-grown cigar-leaf tobacco covered hereby that require the prescription of different terms applicable to different parts of the production area; and

(5) All handling of Type 62 shade-grown cigar-leaf tobacco grown in the designated production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Rulings on proposed findings and conclusions. February 6, 1962, was fixed as the latest date for the filing of briefs with respect to the facts presented in evidence at the hearing and the conclusions which should be drawn therefrom. No brief was filed.

Recommended amendment of marketing agreement and order. The following amended marketing agreement and order are recommended as the appropriate means by which the foregoing conclusions may be carried out:

DEFINITIONS

§ 1195.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, and any other officer or employee of the United States Department of Agriculture who is, or may hereafter be, authorized to act in his stead.

§ 1195.2 Act.

"Act" means Public Act Number 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.).

§ 1195.3 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1195.4 Tobacco.

"Tobacco" means all Type 62 shade-grown cigar-leaf tobacco, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title), that is grown in the production area and harvested after the effective date of this part.

§ 1195.5 Production area.

"Production area" means those counties bordering the Georgia-Florida State line and lying between the Suwanee River on the east and the Flint and Apalachicola Rivers on the west.

§ 1195.6 Grower; producer.

"Grower" or "producer" means any person who is engaged in a proprietary capacity, in the commercial production of tobacco.

§ 1195.7 Handler; packer.

"Handler" or "packer" means the first person, including any grower, who handles tobacco on his own behalf or on behalf of others after harvest and farm curing (initial drying from the green state).

§ 1195.8 Handle; pack.

"Handle" or "pack" means to receive, bulk, sweat, sort, select, bale, or otherwise prepare tobacco for market, or to market tobacco.

§ 1195.9 Prime.

"Prime" means to pick tobacco leaves from tobacco stalks.

§ 1195.10 Field.

"Field" means a field of tobacco within the confines of a single shade covering.

§ 1195.11 Fiscal period.

"Fiscal period" means the 12-month period beginning on February 1 and ending on January 31 of the following year, both dates inclusive: *Provided,* That the first fiscal period shall begin on the effective date of this part.

§ 1195.12 Control Committee; Committee.

"Control Committee" or "Committee" means the Control Committee established pursuant to § 1195.20.

CONTROL COMMITTEE

§ 1195.20 Establishment and membership.

(a) *Establishment.* A Control Committee consisting of 11 members is hereby established to administer the terms and provisions of this part. For each member of the Committee there shall be an alternate member who shall have the same qualifications as the member, and, unless otherwise specified, all provisions of this part applicable to a member shall be applicable to his alternate.

(b) *Membership representation*—(1) *Growers who are not handlers.* Three members shall be growers who are not handlers. Any such member may be an officer, employee or agent of a grower.

(2) *Growers who are also handlers.* Seven members shall be growers who are also handlers. Any such member may be an officer, employee or agent of a grower.

(3) *Handlers who are not growers.* One member shall be a handler who is not a grower. Such member may be an officer, employee or agent of the handler.

§ 1195.21 Term of office.

(a) *Initial members.* The term of office of each initial member of the Committee shall be the first fiscal period.

(b) *Successor members.* The term of office of each successor member shall be two consecutive fiscal periods.

(c) *General.* In the event a successor to any such member has not been selected and has not qualified by the end of the term of office of the respective member, such member shall continue to serve until his successor is selected and has qualified. Each member shall commence to serve on the date on which he qualifies.

§ 1195.22 Selection of members.

The Secretary shall select the various members of the Control Committee, and their respective alternates, on the basis and in the manner prescribed in §§ 1195.20 and 1195.23. However, with respect to the selection of the initial members of the Committee, the Secretary may make such selection without regard to any nominations.

§ 1195.23 Nominations.

(a) *Certain members.* For the consideration of the Secretary in making the selection of the members of the Committee who are to serve during the fiscal period ending on January 31, 1963, nominations for eligible members may be submitted by growers and handlers. Nominations for the grower members who are not handlers may be submitted by growers who are not handlers, or by groups, including associations, of such growers. Such nominations may be by virtue of elections conducted by groups of such growers. Nominations for the grower members who are also handlers may be submitted by growers who are also handlers, or by groups, including associations, of such growers. Such nominations may be by virtue of elections conducted by groups of such growers. Nominations for the handler member who is not a grower may be submitted by handlers or by groups, including associations, of such handlers. Such nominations may be by virtue of elections conducted by groups of such handlers. Such nominations shall be submitted to the Secretary as soon as practical after the beginning of such fiscal period.

(b) *Successor members.* In order to provide nominations for successor members:

(1) The Control Committee shall hold or cause to be held, prior to November 15 of each year, in which successor members are to be selected by the Secretary, a meeting of growers who are not handlers for the purpose of designating nominees from among whom the Secretary may select grower members who are not handlers.

(2) The Control Committee shall hold, or cause to be held, prior to November 15 of each year, in which successor members are to be selected by the Secretary, a meeting of growers who are also handlers for the purpose of designating nominees from among whom the Secretary may select grower members who are also handlers.

(3) The Control Committee shall hold, or cause to be held, prior to November 15 of each year, in which successor members are to be selected by the Secretary, a meeting of handlers who are not growers for the purpose of designating nominees from among whom the Secretary may select the handler member who is not a grower.

(4) The Control Committee shall give adequate notice of each such meeting to all growers and handlers who may be eligible to participate in the respective nominations.

(5) The Secretary may prescribe additional rules and regulations not inconsistent with the provisions of this part, relative to the election of nominees for members on the Committee. Such action may be pursuant to recommendations of the Committee.

(6) At each such meeting held to nominate members on the Control Committee, those eligible to participate

therein shall elect a chairman and secretary therefor. The chairman of each such meeting shall announce the name of each person for whom a vote has been cast, and the number of votes received by each shall be recorded in the minutes. Thereafter, the minutes of such meeting, including such information, shall be transmitted to the Secretary. In obtaining nominations, all persons eligible to participate therein shall be given a reasonable opportunity to vote.

(7) Only those eligible persons who are in attendance at any such meeting may participate in the designation of, and voting for, nominees. Each such person shall be entitled to cast but one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives for each member position for which he is eligible to participate in the designation and voting.

(8) Nominations for members shall be supplied to the Secretary not later than December 1 of the year in which the respective meeting was held, in such manner and form as the Secretary may prescribe.

§ 1195.24 Failure to nominate.

If nominations are not supplied to the Secretary within the time and in the manner and form specified by the Secretary pursuant to § 1195.23(b), the Secretary may, without regard to nominations, select the Committee members on the basis prescribed in § 1195.20.

§ 1195.25 Qualification.

Each person selected by the Secretary as a member of the Committee shall, prior to serving on the Committee, qualify by filing a written acceptance with the Secretary within 15 days after being notified of such section.

§ 1195.26 Alternate members.

An alternate for a member of the Committee shall, in the event of the member's absence, act in the place and stead of that member; and, in the event of the member's removal, resignation, disqualification, or death, such alternate shall act in the place and stead of such member until a successor for the unexpired term of said member is selected and has qualified.

§ 1195.27 Substitutes for members.

In the event the alternate who is authorized to act in the place and stead of a member is unable, or fails, to attend a meeting of the Committee, such member may designate any other alternate for a member of the same group as that represented by the absent member to act in his place and stead, and, pending such designation, the Secretary may designate such substitute.

§ 1195.28 Vacancies.

To fill any vacancy which occurs by reason of the failure of any person, selected as a member of the Control Committee, to file a written acceptance of appointment, or the death, removal, resignation, or disqualification of a member, a successor for his unexpired term of office shall be selected by the Secretary. Nominations may be submitted to the Secretary for his consideration in making such selection. The designation of nominees from among whom the Secretary may select a successor shall be in accordance with the provisions of this part applicable to the designation of nominees for successors to members of the Committee. In the event that such nominations are not submitted to the Secretary within 30 days after the beginning of the vacancy, the Secretary may select a successor without regard to such nomination.

§ 1195.29 Compensation.

Members of the Control Committee shall serve without compensation, but shall be reimbursed for reasonable expense necessarily incurred in the performance of their duties under this part.

§ 1195.30 Powers.

The Control Committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 1195.31 Duties.

The Control Committee shall have the following duties:

(a) To act as intermediary between the Secretary and any grower or handler;

(b) To select, from among its membership, a chairman and such other officers as may be necessary; to select subcommittees composed of committee members; and to adopt such rules and regulations for the conduct of its business as it deems advisable;

(c) To appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees;

(d) To keep such minutes, books, and other records as will clearly reflect all of its acts and transactions and which shall be subject to examination at any time by the Secretary;

(e) To furnish to the Secretary information as to all of its activities, including a copy of the minutes of each meeting, and such other information as the Secretary may request;

(f) To cause the books and other records of the Committee to be audited by one or more competent accountants at least once each fiscal period and at such other times as the Control Committee may deem necessary or as the Secretary may request, which report shall show the receipt and expenditure of funds collected pursuant to this part and a copy of each such report shall be furnished to the Secretary;

(g) To give to the Secretary the same notice of meetings of the Control Committee as is given to the members of the Committee; and

(h) With the approval of the Secretary, to issue such regulations as may be necessary and appropriate for the carrying out of the provisions of this part.

§ 1195.32 Procedure.

(a) The Control Committee may, upon the selection and qualification of nine of its members, organize and commence to function. It may hold meetings only after due notice to its members. The Secretary may designate the time and place of the initial meeting of the committee.

(b) A quorum shall consist of nine members, including alternate members and substitutes then serving in the place and stead of any members, in attendance at the meeting; and all decisions of the Committee shall require not less than seven concurring votes of the members who are present at such meeting.

(c) The Committee may permit voting by mail or telegraph upon due notice to all members: *Provided,* That this method of voting shall not be used at an assembled meeting to obtain votes from absent members: *Provided further,* That when any proposition is submitted for polling by such method, one dissenting vote shall prevent its adoption.

EXPENSES AND ASSESSMENTS

§ 1195.40 Use of funds collected.

All funds received by the Committee, pursuant to this part shall be used only for the purposes authorized in this part.

§ 1195.41 Budget and expenses.

The Control Committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during the then current fiscal period for its maintenance and functioning. The Committee shall, not later than 30 days after the beginning of each fiscal period, prepare and submit to the Secretary a budget of its proposed expenses for such fiscal period and a proposed rate of assessment, together with a report thereon. The funds to cover such expenses shall be acquired by levying assessments upon handlers as provided in this part.

§ 1195.42 Assessments.

(a) Each handler who first handles tobacco shall, with respect to such tobacco, pay to the Committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred, as aforesaid, by the Committee during the then current fiscal period. Each such handler's pro rata share of such expenses shall be equal to the ratio between the total quantity of tobacco handled by him as the first handler thereof during the applicable fiscal period and the total quantity of tobacco handled by all handlers as the first handlers thereof during the same fiscal period.

(b) In order to provide funds to carry out the functions of the Committee, handlers may make advance payments of assessments.

§ 1195.43 Rate of assessment.

(a) The Secretary shall fix the rate of assessment to be paid by such handlers; and such rate shall be fixed after consideration of the Committee's recom-

mendations and other available information applicable thereto.

(b) The Secretary may increase the rate of assessment at any time during a fiscal period in order to secure sufficient funds to cover any later finding of the Secretary relative to the expenses of the Committee.

§ 1195.44 Refunds.

If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal period, unless he demands payment thereof, in which event such proportionate refund shall be paid to him.

§ 1195.45 Accountability of Committee members for funds and property.

The Secretary may, at any time, require the Committee, its members, employees, agents, and all other persons to account for all receipts and disbursements for which they are responsible. Whenever any person ceases to be a member of the Control Committee, he shall account to his successor, to the Committee, or to such person as the Secretary may designate for all receipts, disbursements, funds, books and records, and other property (in his possession or under his control) pertaining to the activities of the Committee for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, the Committee, or person designated by the Secretary the right to all of such funds and property and all claims vested in such person.

§ 1195.46 Legal action for collection of assessments.

The Control Committee may, with the approval of the Secretary, maintain in its own name, or in the name of its members, legal action against any handler for the collection of such handler's pro rata share of the aforesaid expenses.

REGULATION

§ 1195.50 Marketing policy and report.

(a) At or as soon as practical after the beginning of each fiscal period the Committee shall consider, prepare, and submit to the Secretary, a proposed marketing policy, including a report thereon and proposed regulation, if any, with respect thereto, for the handling of tobacco during such period.

(b) In developing its marketing policy, the Committee shall investigate relevant supply and demand conditions for tobacco. In such investigation, the Committee shall give appropriate consideration to the following:

(1) Estimated supply of and demand for tobacco (after considering carryover, production, disappearance, and like factors);

(2) Market price of tobacco by grade and quality at the grower-level and the handler-level;

(3) The trend and level of consumer income; and

(4) Other relevant factors.

(c) In the event it becomes advisable to deviate from such marketing policy, because of changed supply and demand conditions, the Control Committee shall formulate a new or revised marketing policy in the manner heretofore indicated and shall submit such marketing policy, including a report thereon, to the Secretary.

(d) The Control Committee shall give reasonable notice thereof to growers and handlers of the contents of each such report. The Committee may also publish such report in newspapers, selected by the Committee, of general circulation in each county in which Type 62 shade-grown cigar-leaf tobacco is produced.

§ 1195.51 Recommendation for regulation.

(a) Whenever the Committee deems it advisable to limit, during any specified period or periods, the handling of tobacco pursuant to this part it shall recommend to the Secretary the quantity in terms of the number of leaves per tobacco plant, and the grade or quality of tobacco leaves, or either thereof deemed by it advisable to be handled. In making such recommendation, the Committee shall give consideration to the factors referred to in § 1195.50. The Committee shall submit such recommendation to the Secretary, together with the information on the basis of which it made its recommendation. With respect to any such recommendation which relates to the maximum number of leaves that may be handled, the committee shall specify the number of leaves per plant which should be fixed by the Secretary.

(b) The Committee may recommend the modification, suspension, or termination of any regulation pursuant to this part whenever it finds that to do so will tend to effectuate the declared policy of the act. The Committee shall submit such recommendation to the Secretary, together with the information on the basis of which it made its recommendation. With respect to any such recommendation which relates to the maximum number of leaves that may be handled, the committee shall specify the number of leaves per plant which should be fixed by the Secretary.

§ 1195.52 Issuance of regulation.

(a) Whenever the Secretary finds from the recommendation and information submitted by the Committee, or from other available information, that to limit the quantity (in terms of the number of leaves per tobacco plant) of tobacco leaves, and the grade or quality of tobacco leaves, or either thereof, that may be handled would tend to effectuate the declared policy of the act, he shall so limit the handling of tobacco during a specified period or periods. Each such regulation shall specify the maximum number (in terms of the number of leaves per tobacco plant) of tobacco leaves, and the grade or quality of tobacco leaves, or either thereof, that may be handled.

(b) The Secretary may modify, suspend, or terminate any regulation pursuant hereto whenever he finds, from the recommendation and information submitted by the Committee, or from other available information, that to do so will tend to effectuate the declared policy of the act. Any such modification with respect to the maximum number of tobacco leaves that may be handled may be accomplished by the issuance of a separate regulation increasing or decreasing, as the circumstances may warrant, the number "18" appearing in § 1195.53.

(c) The Secretary shall notify the Control Committee of each such regulation, modification, suspension, and termination; and the Committee shall give reasonable notice thereof to growers and handlers.

§ 1195.53 Initial regulation fixing number of leaves that may be handled.

Commencing with the fiscal period ending on January 31, 1963, and continuing until such time as suspended, modified, or terminated pursuant to this part: (a) The maximum number of leaves primed from any tobacco plant during a fiscal period that are eligible for handling is fixed at 18 plus the additional number of leaves provided in § 1195.55(b)(2); and (b) the maximum number of leaves primed from all tobacco plants during such fiscal period that may be handled is fixed at the number of tobacco leaves equal to 18 multiplied by the total number of tobacco plants grown during such fiscal period.

§ 1195.54 Limitations on handling.

No person, whether as principal, agent, broker, legal representative, or otherwise, shall, unless specifically authorized in writing by the Control Committee, handle more than the first three primings of tobacco grown in any field of any producer unless prior to such handling the Control Committee had issued a "handling certificate" with respect to such tobacco.

§ 1195.55 Issuance of handling certificates.

(a) Each grower shall, with respect to the tobacco of each of his fields, be entitled, upon application to the Control Committee, or its representative, in such manner and form as it may with the approval of the Secretary require, to a certification of the Committee of such tobacco of the grower as may be eligible for handling. Each such certificate shall state the name of the grower and the name of the handler, and identify the field in which the certificated tobacco was grown. Notwithstanding any other provision of this part unless otherwise provided in this part, no such certificate shall be issued with respect to any tobacco the handling of which is prohibited pursuant to this part.

(b) Upon application by a grower to the Control Committee for the issuance of a handling certificate for tobacco grown in a particular field, the committee shall issue such a certificate if it determines that the tobacco leaves involved are eligible for handling. Before issuing any such handling certificate, the committee shall have the tobacco inspected as well as the field in which grown and shall have on record a report of that inspection. In determining the

number of tobacco leaves of a particular field eligible for handling and to be covered by a handling certificate, the committee shall issue the handling certificate for the tobacco leaves in accordance with the following:

(1) To the extent that not more than the applicable maximum number of leaves per tobacco plant specified for the then current fiscal period were primed from each tobacco plant in such field and constitute the leaves to be certified; or

(2) To the extent that not more than such applicable maximum number of leaves per tobacco plant plus two additional leaves were primed from any tobacco plant in such field and of the tobacco leaves constituting the leaves to be certified the average number of leaves primed per tobacco plant does not exceed the applicable maximum number of leaves.

(c) Any grower who is dissatisfied with any determination by the Control Committee, on his application for the issuance of a handling certificate, may file a protest with the Committee: *Provided,* That such protest is in writing and filed promptly. The grower may submit with the protest, such evidence and supporting data and information as he deems appropriate to substantiate his protest and enable the Committee to reconsider the matter. Any such grower who is dissatisfied with the decision of the Control Committee in regard to his protest may appeal in writing to the Secretary. The Secretary may, upon an appeal made as aforesaid, modify or reverse the action of the Committee from which the appeal was taken. The authority of the Secretary to supervise and control the issuance of handling certificates is unlimited and plenary; and any decision by the Secretary with respect to any handling certificate shall be final and conclusive.

§ 1195.56 Identification of tobacco handled.

The Committee may, with the approval of the Secretary, adopt requirements of identification by handlers of tobacco handled by them during such periods of time as the Committee deems necessary.

§ 1195.57 Exemption certificates.

(a) The Committee shall, subject to the approval of the Secretary, adopt the procedural rules to govern the issuance of exemption certificates.

(b) The Control Committee may issue certificates of exemption to any grower who applies for such exemption and furnishes proof, satisfactory to the Committee, that by reason of Acts of God or other conditions beyond his control and reasonable expectation he will be prevented because of any regulation pursuant to this part from handling, or having handled, as large a proportion of his production of tobacco during the then current fiscal period as the estimated average proportion of production of tobacco permitted to be handled during such fiscal period. Each such exemption certificate shall permit the grower to handle, or have handled, a proportion of his production equal to the aforesaid estimated average proportion of production. The Committee shall maintain a record of all applications submitted for exemption certificates and shall maintain a record of all certificates issued, including the information used in determining in each instance the quantity of tobacco thus to be exempted, and a record of all exempted tobacco handled. Such additional information as the Secretary may require shall be in the record of the Committee. The Committee shall, from time to time, submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of tobacco thus exempted, and such additional information as may be requested by the Secretary.

(c) Any grower who is dissatisfied with any determination by the Control Committee on his application for the issuance of an exemption certificate may file a protest with the Committee: *Provided,* That such protest is in writing and filed promptly. The grower may submit, with the protest, such evidence and supporting data and information as he deems appropriate to substantiate his protest and enable the Committee to reconsider the matter. Any such grower who is dissatisfied with the decision of the Control Committee in regard to his protest may appeal in writing to the Secretary. The Secretary may, upon an appeal made as aforesaid, modify or reverse the action of the Committee from which the appeal was taken. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited and plenary; and any decision by the Secretary with respect to any exemption certificate shall be final and conclusive.

(d) The Committee shall be permitted at any time to make a thorough investigation of any grower's or handler's claim pertaining to exemptions.

MISCELLANEOUS

§ 1195.60 Books and records.

(a) Each handler and each subsidiary and affiliate thereof shall keep, and retain for five years, such books and records as will clearly show the details of the respective person's handling of tobacco, including, but not being limited to, identification of the grower of the tobacco and the field in which produced, and which shall be available for examination upon request of the Secretary.

(b) Upon the request of the Committee made with the approval of the Secretary, each handler shall furnish to the Committee, in such manner and at such time as may be prescribed, such information as will enable the Committee to exercise its powers and perform its duties under this part.

§ 1195.61 Compliance.

Except as provided in this part, no handler shall handle tobacco, the handling of which is prohibited pursuant to this part and no handler shall handle tobacco except in conformity to the provisions of this part.

§ 1195.62 Right of the Secretary.

The members of the Committee, including successors and alternates thereof, and any agent or employee appointed or employed by the Committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, determination, decision, or other act of the Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said Committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 1195.63 Amendment.

Amendments to this part may be proposed, from time to time, by the Committee or by the Secretary.

§ 1195.64 Duration of immunities.

The benefits, privileges and immunities conferred upon any person by virtue of this part shall cease upon the termination of this part, except with respect to acts done under this part and during the existence of this part.

§ 1195.65 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 1195.66 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 1195.67 Personal liability.

No member or alternate of the Committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty.

§ 1195.68 Separability.

If any provision of this part is declared invalid, or the applicability of this part to any person, circumstance, or thing is held invalid, the validity of the remainder of this part, or the applicability thereof, to any other person, circumstance, or thing shall not be affected thereby.

§ 1195.69 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare above his signature attached to this part and shall continue in force until terminated in any of the ways specified in this part.

§ 1195.70 Termination.

(a) The Secretary may, at any time, terminate the provisions of this part by

giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this part, or regulations pursuant to this part, whenever he finds that such provisions or regulations do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that such termination is favored by a majority of growers who, during the preceding fiscal period, have been engaged in the production of tobacco for market: *Provided*, That such majority has, during such period, produced for market more than fifty percent of the volume of such tobacco produced for market; but such termination shall be effective only if announced on or before January 31 of the then current fiscal period.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 1195.71 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the then functioning members of the Committee shall continue as trustees (for the purpose of liquidating the affairs of the Committee) of all funds and the property then in the possession of, or under control of, the Committee, including claims for any funds unpaid, or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) Said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all funds and property on hand, together with all books and records of the Committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred, or delivered by the Committee or its members, pursuant to this section shall be subject to the same obligations imposed upon the members of the said Committee and upon the said trustees.

§ 1195.72 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen, or which may thereafter arise, in connection with any provision of this part, or any regulation issued under this part, or (b) release or extinguish any violation of this part, or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary, or of any other person, with respect to any such violation.

§ 1195.73 Counterparts.

This agreement may be executed in multiple counterparts; and, when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.[1]

§ 1195.74 Additional parties.

After the effective date of this agreement, any handler who has not previously executed this agreement may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary; and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.[1]

§ 1195.75 Order with marketing agreement.

Each signatory handler favors and approves the issuance, by the Secretary, of an order regulating the handling of tobacco in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.[1]

Dated: March 13, 1962.

ROBERT G. LEWIS,
Deputy Administrator, Price and Production, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62-2726; Filed, Mar. 21, 1962; 8:45 a.m.]

[1] Applies only to marketing agreement.

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 1115]

AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft Wasp Jr. and R-985 Series Engines

Pursuant to the authority delegated to me by the Administrator (14 CFR Part 405), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring replacement of the cam reduction drive gear assembly on Pratt and Whitney Aircraft Wasp Jr. and R-985 Series engines. This proposed action is deemed necessary since failure of the gear assembly has resulted in in-flight engine shutdowns.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room C-226, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before April 23, 1962, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons when the prescribed date for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) of Part 507 (14 CFR Part 507), by adding the following airworthiness directive:

PRATT & WHITNEY. Applies to all Pratt & Whitney Aircraft Wasp Jr. and R-985 Series engines.

Compliance required at next engine overhaul.

To prevent failure of the cam reduction drive gear assembly and resultant loss of engine power, replace P/N 3965 cam reduction drive gear assembly incorporating six rivets with either P/N 3965 cam reduction drive gear assembly incorporating twelve rivets or P/N 331098 cam reduction drive gear assembly.

(Pratt & Whitney Aircraft Service Bulletin 1671 dated December 13, 1957, and Supplement No. 1, Revision A dated February 12, 1959, revised November 24, 1959, cover this same subject.)

Issued in Washington, D.C., on March 15, 1962.

GEORGE C. PRILL,
Director, Flight Standards Service.

[F.R. Doc. 62-2727; Filed, Mar. 21, 1962; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 62-WE-12]

CONTROLLED AIRSPACE

Proposed Designation of Control Zone

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency (FAA) is considering an amendment to Part 601 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration designation of a control zone at Gillespie Airport, Calif. The proposed control zone would be designated from 0600 to 2200 hours local standard time, daily, within a 3-mile radius of Gillespie Airport, Calif. (latitude 32°49'26" N., longitude 116°58'18" W.). This control zone would provide protection for aircraft operating at the Gillespie Airport. Communications and

weather reporting service would be provided to aircraft operating within the proposed control zone by the FAA control tower scheduled to be commissioned at Gillespie Airport approximately March 15, 1962.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 9, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C–226, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

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

Issued in Washington, D.C., on March 15, 1962.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 62–2728; Filed, Mar. 21, 1962; 8:45 a.m.]

[14 CFR Part 602]

[Airspace Docket No. 62–WA–23]

JET ROUTES AND JET ADVISORY AREAS

Proposed Alteration and Designation

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to §§ 602.100 and 602.200 of the regulations of the Administrator, the substance of which is stated below.

Jet Route No. 40 presently extends from Montgomery, Ala., to Charleston, S.C. The Federal Aviation Agency has under consideration the extension of J–40 from the Charleston VORTAC via the Wilmington, N.C., VORTAC, the intersection of the Wilmington VORTAC 012° and the Norfolk, Va., VORTAC 229° True radials, to the Norfolk VORTAC. Additionally, the FAA has under consideration the designation of an en route radar jet advisory area within 16 statute miles either side of J–40 from Montgomery to Norfolk from flight level 240 to flight level 390 inclusive, excluding the portion outside of the continental control area. The extension of J–40 proposed herein would provide an alternate routing for jet aircraft operating between southern terminals and the New York Metropolitan area. The designation of the proposed en route radar jet advisory area would provide defined areas wherein jet advisory service would be provided to civil turbojet aircraft while operating on J–40 between Montgomery and Norfolk.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C–226, 1711 New York Avenue NW., Washington 25, D.C.

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

Issued in Washington, D.C., on March 16, 1962.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 62–2729; Filed, Mar. 21, 1962; 8:45 a.m.]

[14 CFR Part 602]

[Airspace Docket No. 61–WA–200]

JET ROUTES AND JET ADVISORY AREAS

Proposed Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering amendments to §§ 602.100 and 602.200 of the regulations of the Administrator, the substance of which is stated below.

Jet Route No. 21 presently extends in part from the San Antonio, Texas, VORTAC to the Laredo, Texas, VORTAC. Jet Route No. 25 presently extends in part from the San Antonio VORTAC to the Brownsville, Texas, VORTAC. Jet Route No. 29 presently extends in part from the Palacios, Texas, VOR to the Brownsville VORTAC.

The Federal Aviation Agency has under consideration the following actions:

1. Extend J–21 and its associated radar jet advisory area from the Laredo VORTAC to the United States/Mexican Border via the Laredo VORTAC 172° True radial.

2. Extend J–25 and J–29 and their associated radar jet advisory areas from the Brownsville VORTAC to the United States/Mexican Border via the Brownsville VORTAC 187° True radial.

The extension of J–21, 25 and 29 and the associated radar jet advisory areas would provide inter-connecting high altitude routes for civil turbojet aircraft operating between Mexico City, Mexico, and United States terminals.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C–226, 1711 New York Avenue NW., Washington 25, D.C.

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

Issued in Washington, D.C., on March 15, 1962.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 62–2730; Filed, Mar. 21, 1962; 8:45 a.m.]

[14 CFR Part 608]

[Airspace Docket No. 62–AL–7]

SPECIAL USE AIRSPACE

Proposed Alteration of Restricted Area

Pursuant to the authority delegated to me by the Administrator (14 CFR

409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 608.22 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration a proposal by the Department of the Air Force to extend the time of designation of the Clear, Alaska, Restricted Area R–2206 for an indefinite period.

R–2206 was designated as a protective measure for aircraft against the microwave radiation hazard emanating from the Ballistic Missile Early Warning System at Clear, Alaska. This restricted area was designated for a limited time pending completion of tests to substantiate the validity of the radiation hazard criteria originally submitted by the Air Force. To date, these tests have been inconclusive and further tests will be conducted. Therefore, in order to provide the necessary protection for aircraft while additional tests are being conducted, the designation of R–2206 would be extended for an indefinite period.

If this action is taken, the time of designation of the Clear, Alaska, Restricted Area R–2206 would be changed to "Continuous."

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Alaskan Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C–226, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

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

Issued in Washington, D.C., on March 15, 1962.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 62–2731; Filed, Mar. 21, 1962; 8:45 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Part 154]

[Docket No. R–207]

CHANGES IN RATE SCHEDULES AND TARIFFS; FILINGS BY PIPELINE COMPANIES

Notice of Extension of Time

MARCH 15, 1962.

Changes in rate schedules and tariffs—filings by pipeline companies—revision of § 154.63, Docket No. R–207.

Upon consideration of the motion filed March 8, 1962 by the Independent Natural Gas Association of America for an extension of time within which to file submittals to the notice of proposed rulemaking issued February 20, 1962 (27 F.R. 1918) in the above-designated matter;

An extension is hereby granted to and including April 30, 1962 within which interested persons may submit data, views and comments concerning the proposed amendments. Paragraph (6) of said notice issued February 20, 1962 is amended accordingly.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62–2744; Filed, Mar. 21, 1962; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

Proposed Aggregate Limitation on Investments and Loans

Notice is hereby given that pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, Public Law 85–699, 72 Stat. 694, as amended, it is proposed to amend, as set forth below, § 107.708 of Part 107 of Subchapter B, Chapter I of Title 13 of the Code of Federal Regulations, as revised in 26 F.R. 8232–8242 and amended (27 F.R. 167, 851 and 1720). Prior to the final adoption of such amendment, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in triplicate, to the Small Business Investment Division, Small Business Administration, Washington 25, D.C., within a period of twenty-one days of the date of this notice in the FEDERAL REGISTER.

Information. The amendment now under consideration provides that any two or more business entities controlled by the same entity or entities shall be deemed a single small business concern for the purposes of § 107.708 (a) and (b).

It is proposed to amend the Regulations Governing Small Business Investment Companies as follows:

1. By adding a new paragraph (c) to § 107.708 which reads as follows:

§ 107.708 Aggregate limitation on investments and loans.

* * * * *

(c) Any two or more business entities which are controlled directly or indirectly (through ownership, stock interests, or otherwise) by the same entity or entities, shall be deemed to be a single small business concern for the purposes of paragraphs (a) and (b) of this section.

Dated: March 14, 1962.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 62–2732; Filed, Mar. 21, 1962; 8:46 a.m.]

Notices

DELAWARE RIVER BASIN COMMISSION

PROPOSED EXPENSE BUDGETS

Notice of Public Hearing

In accordance with section 14.4(b) of the Delaware River Basin Compact, notice is hereby given of a public hearing to be held by the Delaware River Basin Commission on March 28, 1962. The subject of the hearing will be the Commission's proposed current expense budgets for the fourth quarter of fiscal year July 1, 1961 to June 30, 1962 and for the fiscal year beginning July 1, 1962. Copies of these proposed expense budgets may be examined at the Commission's temporary offices at 930 Suburban Station Building, Philadelphia 3, Pa. The hearing will take place in the conference room, top floor, Pennsylvania State Office Building, at Broad and Spring Garden Streets in Philadelphia at 11:00 a.m.

Regular meetings of the Delaware River Basin Commission will be held on the fourth Wednesday of every month at 10:30 a.m. Regular meetings will be held at the Commission's principal offices or at such other place as the Commission may determine. No special announcement will be made of regular meetings.

WALTER M. PHILLIPS,
Acting Secretary.

MARCH 15, 1962.

[F.R. Doc. 62-2739; Filed, Mar. 21, 1962; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Land

MARCH 14, 1962.

The Forest Service, United States Department of Agriculture, has filed an application, Serial No. Los Angeles 0165034, for the withdrawal of certain lands from location and entry, under the General Mining Laws, subject, however, to existing withdrawals and to valid existing rights.

These lands have previously been withdrawn for the Sierra National Forest Reserve by Presidential Proclamation dated November 5, 1891, and as such have been open to entry under the mining laws. The applicant desires the exclusion of mining activity from the area identified as the Teakettle Experimental Forest, as such lands are needed for experimental forest purposes. Five experimental watersheds and twenty experimental plots are under study in the area. Installations include five dams and streamgaging stations and a shelter house. Mineral entry and development would vitiate the long-term experimental studies now underway.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1414 8th Street, Box 723, Riverside, California.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN

T. 11 S., R. 27 E.,
Sec. 15, SW¼;
Sec. 16, S½NE¼, W½, SE¼;
Sec. 17, All;
Sec. 20, E½, E½W½, W½NW¼;
Sec. 21, All;
Sec. 22, W½;
Sec. 27, N½NW¼;
Sec. 28, N½N½;
Sec. 29, N½NE¼.

The above described area contains 3,200 acres. The lands are located in Fresno County.

ROLLA E. CHANDLER,
Manager.

[F.R. Doc. 62-2733; Filed, Mar. 21, 1962; 8:46 a.m.]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Land

MARCH 14, 1962.

The Forest Service, United States Department of Agriculture, has filed an application, Serial No. Los Angeles 0170921, for the withdrawal of certain lands from location and entry under the General Mining Laws, subject, however, to existing withdrawals and to valid existing rights.

These lands have previously been withdrawn for the Sierra and Sequoia National Forest Reserves by Presidential Proclamation dated November 5, 1891, and as such have been open to entry under the mining laws. The applicant desires the exclusion of mining activity to protect the caves, and the attractive limestone formations they contain, in the Kings Caverns Geological Area in the Sierra National Forest, and the Packsaddle Caves Geological Area in the Sequoia National Forest, looking toward their development as scenic attractions open to the public.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1414 8th Street, Box 723, Riverside, California.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN

T. 11 S., R. 27 E.,
Sec. 35, SE¼;
Sec. 36, SW¼.
T. 12 S., R. 27 E.,
Sec. 1, Lots 3 and 4, S½NW¼;
Sec. 2, Lots 1 and 2, S½NE¼.
T. 23 S., R. 33 E.,
Sec. 18, Lots 2 and 3, NE¼SW¼, SE¼NW¼.

The above described area contains approximately 807.98 acres. The lands are located in Fresno and Tulare Counties.

ROLLA E. CHANDLER,
Manager.

[F.R. Doc. 62-2734; Filed, Mar. 21, 1962; 8:46 a.m.]

[No. 62-10]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

MARCH 9, 1962.

The Bureau of Reclamation, Department of the Interior, has filed an amendment to their application, Serial No. Oregon 010313, for the withdrawal of additional lands as described below, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws, as provided by section 3 of the act of June 17, 1902 (32 Stat. 388), as amended.

The applicant desires the land for reclamation purposes in the development of the Crooked River Project. Administration of the land for grazing purposes will remain with the Bureau of Land Management until such time as it is needed for reclamation purposes.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 710 Northeast Holladay, Portland 12, Oregon.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice

will be sent to each interested party of record.

The lands involved in the application are:

WILLAMETTE MERIDIAN, OREGON

T. 16 S., R. 17 E.,
Sec. 34, SE¼NW¼, SE¼NE¼.
T. 17 S., R. 17 E.,
Sec. 9, SW¼NW¼.

The area described aggregates 120 acres.

RUSSELL E. GETTY,
State Director.

[F.R. Doc. 62-2735; Filed, Mar. 21, 1962; 8:46 a.m.]

Office of the Secretary

[Order 2862]

PALMYRA ISLAND

Land Recordation

Section 1. Pursuant to Executive Order No. 10967, dated October 10, 1961, this Order is issued to serve public notice that the United States District Court for the District of Hawaii has assumed jurisdiction in the filing and recording of written muniments of title to land on Palmyra Island.

SEC. 2. The United States District Court for the District of Hawaii has directed the Clerk to establish and maintain in his office an appropriate book or books wherein he shall file and record in chronological order of their presentation to him all muniments of title, such as deeds, leases, or other written indicia of title susceptible of recordation, which pertain to or evidence any interest in or to land on Palmyra Island. Such instruments as may be filed with such Clerk shall, upon their acceptance by him, become public notice of their contents. Such book or books as may be kept by the Clerk for this purpose shall be open to public inspection during ordinary business hours on each business day.

SEC. 3. The Clerk shall charge such fees for filing and recordation as the said District Court may determine to be proper.

JAMES K. CARR,
Acting Secretary of the Interior.

MARCH 16, 1962.

[F.R. Doc. 62-2736; Filed, Mar. 21, 1962; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Amdt. 1]

NOTICE OF TERMS AND CONDITIONS FOR MAKING PAYMENTS UNDER SECTION 32 TOBACCO EXPORT PAYMENT PROGRAM, CMX 40a

A. This tobacco export payment program was announced and outlined in a press release dated February 16, 1962. Complete terms and conditions of the program were set forth in a notice published March 10, 1962 (27 F.R. 2329). In order to encourage the exportation of eligible tobacco covered by export sales contracts which were made in reliance on the press release and prior to such notice, such exportation being in conformity with program provisions, paragraph 3 of such notice is amended to read as follows:

3. *Payment.* Payment will be made by the Secretary with respect to eligible tobacco covered by an export sales contract with a foreign buyer having a date of sale after February 16, 1962, and on or before November 30, 1962, and exported to eligible countries in accordance with the provisions of this offer.

B. In order to clarify the computation of the rate of payment on tobacco which had been purchased at a special discount, the proviso in paragraph 4 of said notice is amended to read as follows: *"Provided, however,* That if the tobacco exported was purchased at a special discount from the association's sales prices, which discount was not in effect on February 16, 1962, the rate of payment under this offer will be reduced by the same percentage as the discount."

C. The date in the first sentence of paragraph 10 of said notice is amended to read June 30, 1963.

STEPHEN E. WRATHER,
Director, Tobacco Division, Agricultural Marketing Service.

MARCH 13, 1962.

[F.R. Doc. 62-2751; Filed, Mar. 21, 1962; 8:47 a.m.]

BUDDY SHOFFNER AUCTION CO. ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), on the respective dates specified below it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the act, as amended (7 U.S.C. 202), and were, therefore, subject to the act, and notice was given to the owners and to the public by posting notice at the stockyards as required by said section 302.

Name, Location of Stockyard and Date of Posting

ARKANSAS

Buddy Shoffner Auction Co., Newport, January 11, 1962.

IDAHO

Spencer Livestock Commission Co., Lewiston, January 9, 1962.

ILLINOIS

Greenville Livestock Auction Co., Greenville, December 27, 1961.

IOWA

Hampton Auction, Inc., Hampton, December 11, 1961.

Oskaloosa Livestock Auction, Oskaloosa, January 17, 1962.

MISSISSIPPI

Luther E. Tadlock Stockyard, Forest, February 27, 1962.

Tri-County Livestock Co., Inc., Magee, January 24, 1962.

Tupelo Stock Yard, Tupelo, January 17, 1962.

MISSOURI

Clark County Sale Co., Kahoka, February 7, 1962.

Hinds Sale Co., Memphis, February 7, 1962.

Kahoka Sale Co., Kahoka, February 7, 1962.

Wentzville Auction Co., Wentzville, February 6, 1962.

OKLAHOMA

Big Pasture Auction Co., Frederick, January 19, 1962. (Notice of Proposed Posting of Stockyards, published on June 10, 1961 (26 F.R. 5242), identified this market as Frederick Stockyards. Name subsequently changed as shown.)

El Reno Live Stock Auction, El Reno, January 16, 1962.

SOUTH CAROLINA

Rock Hill Sale Barn, Rock Hill, December 8, 1960.

SOUTH DAKOTA

Schnell Livestock Market, Inc., Lemmon, December 9, 1961.

VERMONT

Chickering Commission Sale, Westminster, December 31, 1961.

Done at Washington, D.C., this 19th day of March 1962.

H. L. JONES,
Chief, Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 62-2778; Filed, Mar. 21, 1962; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

CHAD

Finding Regarding Foreign Social Insurance and Pension System

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) authorizes and requires the Secretary of Health, Education, and Welfare to find whether a foreign country has in effect a social insurance or pension system which is of general application in such country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death; and whether individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in him by the Secretary of Health, Education, and Welfare, the Commissioner of Social Security has considered evidence relating to the social insurance or pension system of Chad, from which evidence it appears that under the social insurance or pension system of Chad benefits are not payable on account of old age, retirement, or death.

Accordingly, it is hereby determined and found that Chad does not have in effect a social insurance or pension system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

[SEAL] W. L. MITCHELL,
Commissioner of Social Security.

MARCH 12, 1962.

Approved: March 16, 1962.

ABRAHAM RIBICOFF,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 62-2757; Filed, Mar. 21, 1962; 8:48 a.m.]

ECUADOR

Finding Regarding Foreign Social Insurance and Pension System

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) authorizes and requires the Secretary of Health, Education, and Welfare to find whether a foreign country has in effect a social insurance or pension system which is of general application in such country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death; and whether individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in him by the Secretary of Health, Education, and Welfare, the Commissioner of Social Security has considered evidence relating to the social insurance or pension system of Ecuador, from which evidence it appears that Ecuador has a social insurance system of general application which pays periodic benefits on account of old age, retirement, or death, and under which citizens of the United States, not citizens of Ecuador, who leave Ecuador, are permitted to receive benefits or their equivalent while outside that country.

Accordingly, it is hereby determined and found that Ecuador has in effect a social insurance or pension system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

[SEAL] W. L. MITCHELL,
Commissioner of Social Security.

MARCH 16, 1962.

Approved: March 16, 1962.

ABRAHAM RIBICOFF,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 62-2758; Filed, Mar. 21, 1962; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 13433 etc.]

HAMILTON FLYING CLUB ET AL.

Notice of Hearing

Hamilton Flying Club, Docket 13433; Columbia Airlines Ltd., Docket 13455, B.N.P. Airways Limited, Docket 13364.

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceedings is assigned to be held on March 27, 1962, at 10 a.m. e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C. before Examiner Joseph L. Fitzmaurice.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 62-2759; Filed, Mar. 21, 1962; 8:48 a.m.]

[Docket No. 13469; Order E-18117]

AIR CARRIERS; LIABILITY FOR NUCLEAR AND RADIATION DAMAGE

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of March 1962.

In the matter of the investigation of a tariff liability rule which absolves air carriers from liability for nuclear and radiation damage regardless of cause; Docket 13469.

By tariff revision filed to become effective March 22, 1962, air carriers participating in Agent Smith's Official Air Freight Rules Tariff No. 1-A, CAB No. 13, propose to add a provision to their tariff rules which states that the participating carriers shall not be liable for loss, damage, delay or other result caused by "Nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote, and regardless of whether caused by, contributed to, or aggravated by any other factor." [1]

The Board has decided on its own initiative to investigate the lawfulness of this proposal. By its terms, the rule would absolve a carrier from liability for the described damage even though it is caused by the carrier's own negligent or wilful act. A tariff rule containing such blanket immunity appears to be in derogation of the responsibilities of a carrier at common law.[2] We perceive no public policy considerations which require air carriers to be free from responsibility for damage caused or contributed to by their negligence, or indeed, their wilful acts.[3]

The proposed rule would be applicable to all certificated domestic trunk, local service, and all-cargo carriers, and the shipper by air would have no effective choice but to ship under these conditions. However, no support or reasons have been furnished on behalf of any carrier as to a need for such exculpation. The Board will therefore suspend use of this rule pending investigation thereof.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, particularly sections 102, 204(a), 403, 404, and 1002 thereof: *It is ordered*, That:

1. An investigation is instituted to determine whether Tariff Rule No. 3.2(a)7, appearing on 14th Revised Page 15 of Agent Smith's Official Air Freight Rules Tariff No. 1-A, CAB No. 13, and the practices in interstate air transportation of the air carriers under such rule, are, or will be, unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and, if found to be so, to determine and prescribe the lawful rule and practices.

2. Pending such investigation, hearing and decision by the Board, Rule No. 3.2(a)7 appearing on 14th Revised Page 15 of Agent B. H. Smith's C.A.B. No. 13, so far as applicable to interstate air transportation, is suspended and its use deferred to and including June 19, 1962, unless otherwise ordered by the Board and no changes will be made therein during the period of suspension except by order or special permission of the Board.

3. This investigation will be set for hearing before an Examiner of the Board at a time and place hereafter to be designated.

4. A copy of this order shall be served upon the following air carriers, which are made parties to this proceeding:

AAXICO Airlines, Inc.
Alaska Airlines, Inc.
Allegheny Airlines, Inc.
American Airlines, Inc.
Bonanza Air Lines, Inc.
Braniff Airways, Inc.
Central Airlines, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
Eastern Air Lines, Inc.
The Flying Tiger Line, Inc.
Frontier Airlines, Inc.
Lake Central Airlines, Inc.
Mohawk Airlines, Inc.
National Airlines, Inc.
New York Airways, Inc.
North Central Airlines, Inc.
Northeast Airlines, Inc.

[1] Rule 3.2(a)7, appearing on 14th Revised Page 15 of Agent Smith's CAB No. 13.

[2] U.S. v. Atlantic Mutual Insurance Co., 343 U.S. 236, 239 (1952).

[3] The Ansaldo San Giorgio I v. Rheinstrom Co., 294 U.S. 494, 499 (1935). In New York, N.H. and H.R. Co. v. Nothnagle, 346 U.S. 128, 136 (1953), the Supreme Court stated: "* * * " 'The great object of the law governing common carriers was to secure the utmost care in the rendering of a service of the highest importance to the Community. A carrier who stipulates not to be bound to the exercise of care and diligence "seeks to put off the essential duties of his employment." It is recognized that the carrier and the individual customer are not on an equal footing. "The latter cannot afford to higgle or stand out and seek redress in the Courts."' * * *"

Northwest Airlines, Inc.
Ozark Air Lines, Inc.
Pacific Air Lines, Inc.
Pacific Northern Airlines, Inc.
Piedmont Aviation, Inc.
Riddle Airlines, Inc.
Slick Airways, Inc.
Southern Airways, Inc.
Trans-Texas Airways, Inc.
Trans World Airlines, Inc.
United Air Lines, Inc.
West Coast Airlines, Inc.
Western Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 62-2761; Filed, Mar. 21, 1962; 8:48 a.m.]

[Docket No. 13468; Order E-18118]

QUAKER CITY AIRWAYS, INC.

Reduced Military Passenger Charter Rates; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 19th day of March 1962.

Quaker City Airways, Inc. (also operating as Admiral Airways, Inc.) has filed a tariff to become effective March 22, 1962, proposing live and ferry charter rates of $2.40 per mile for the air transportation of military personnel for the military agencies in L-749 aircraft between points in the continental United States, and points within the continental United States, on the one hand, and Hawaii, Puerto Rico, Wake Island, Guam, and Okinawa, on the other; also between Hawaii, Wake Island, Guam, and Okinawa.

The proposed rates are below Quaker City's current general charter rates for L-749 aircraft of $2.45 per mile, live and ferry, between points within the continental United States, and $2.75 per mile in other areas, and below the general pattern established by other carriers for such aircraft. They are also below the established pattern of charter rates for L-049 aircraft. The carrier has submitted no data or reasons for these proposed lower military charter rates for this aircraft.

Upon consideration of this tariff and all relevant matters, the Board finds that such tariff proposals with respect to rates for L-749 military passenger charter service may be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and should be investigated. In view of the departure of this proposal from the existing level of rates, and in order to prevent unwarranted rate changes in this area, the Board has concluded to suspend the operation of such L-749 tariff proposal and the use thereof pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 404, and 1002 thereof: *It is ordered,* That:

1. An investigation be instituted to determine whether the rates per charter mile and per ferry mile for L-749 aircraft on Original Page 5 of Quaker City Airways, Inc., C.A.B. No. 4, are, or will be, unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful and if found to be unlawful to determine and prescribe the lawful rates.

2. Pending investigation, hearing and decision by the Board, the rates per charter mile and per ferry mile for L-749 aircraft on Original Page 5 of Quaker City Airways, Inc., C.A.B. No. 4, are suspended and their use deferred to and including June 19, 1962, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board.

3. The proceeding ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

4. Copies of this order be filed with the aforesaid tariff and be served upon Quaker City Airways, Inc., which is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 62-2762; Filed, Mar. 21, 1962; 8:48 a.m.]

[Docket No. 13463; Order E-18120]

PACIFIC NORTHWEST-ALASKA AIR SERVICE

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of March 1962.

On January 15, 1958, the Board issued Order E-12113 instituting an investigation into the pattern of service between the States[1] and Alaska. The Board found such an investigation necessary since the existing air service to Alaska, conducted by four carriers,[2] showed no indication of future decreases in the total subsidy requirements for States-Alaska operations. Subsequently, on August 14, 1958, the United States Senate adopted a Resolution calling for postponement of the investigation pending more extensive experience under Public Law 85-155 (August 26, 1957, 71 Stat. 415), which made permanent the termporary certificates of public convenience and necessity of the air carriers operating between the United States and Alaska, and Public Law 85-508 (July 7, 1958, 72 Stat. 339), which conferred statehood upon Alaska. On October 17, 1958, the Board, by Order E-13078, deferred action on the investigation and on August 31, 1959, by Order E-14401, dismissed the investigation.

The permanent certification of the States-Alaska carriers and the grant of statehood to Alaska did not result in a solution of the problems with which we were earlier concerned. The total subsidy paid to Alaska Airlines and Pacific Northern for fiscal 1961 amounted to $3.8 million, representing no improvement since 1958. The amount attributed to their mainland-Alaska service, $2.8 million, was about $.5 million more than it was in 1958. Since Pan American went off subsidy in 1957, its operating losses in its Alaska Division have ranged from a high of $2.0 million to a low of $925,000 in 1960. During fiscal 1961, its losses increased to $1.0 million

Since 1955, the total on-line O. & D. passengers to the four key Alaskan markets (Juneau, Ketchikan, Fairbanks, and Anchorage) has grown only 31 percent for an average growth of only six percent a year. The total mainland-Alaska market for the four carriers has gained only 31,000 passengers since 1958—from 172,000 to 203,000 in 1960. The subsidized carriers have gained the larger part of this slight increase in traffic but, as indicated by the Pan American losses described above, they have done so at the expense of nonsubsidized carriers.[3] Moreover, more capacity than ever will be available since the four carriers concerned have all acquired or ordered jet equipment to be operated in the mainland-Alaskan market.

The Board conducted informal individual meetings with the four mainland-Alaskan air carriers regarding the subject of this uneconomic multiple-carrier service, the last of which was concluded on August 31, 1961. Though there was agreement among the air carriers at the last meeting that there are too many carriers serving Alaska, the effort to have such carriers come to a meeting of the minds and produce concrete voluntary agreements was not successful. The Board, as a result of the study attached hereto,[4] has reached tentative conclusions as to the manner in which the problem might be solved.

It will be noted that the study indicates that the establishment of the best route structure lies in one of two proposals: A two-carrier system or a three-carrier system. Fundamentally, the two-carrier system would call for a merged Alaska Airlines-Pacific Northern carrier having unrestricted authority from Seattle to the four key Alaskan markets and Northwest serving Seattle-Anchorage, possibly being restricted, however, to flights originating or terminating in the Orient. Northwest would retain its unrestricted New York/Chicago/Twin Cities-Anchorage authority. Pan American's Alaskan air service

---

[1] The term "States" was used prior to Alaska's gaining statehood. The term "Mainland" is now used to denote the 48 contiguous States.

[2] Alaska Airlines, Inc. (Alaska Airlines); Northwest Airlines, Inc. (Northwest); Pacific Northern Airlines, Inc. (Pacific Northern); and Pan American World Airways, Inc. (Pan American).

[3] Though Pacific Northern's subsidy rate is due to take a substantial drop as of May 1, 1962 (Orders E-17633, E-17671, of Oct 26, 1961, and Nov. 7, 1961, respectively), there still exists an open rate period for Pan American (including Alaska) from Oct. 1, 1956, to Dec. 31, 1958, for which period Pan American is apparently entitled to subsidy. Order E-18018, dated February 13, 1962.

[4] Filed as part of the original document.

would be terminated, except at Fairbanks which would be suspended until 60 days after the Board's decision in the Reopened Transpacific Route Case. Though the route structure described in the two-carrier system should result in a subsidy-free operation, and would probably be the preferred route structure, it is dependent upon a merger between Alaska Airlines and Pacific Northern, which the Board is unable to compel.

Consequently, barring further productive steps leading to merger and the ultimate solution set forth in the two-carrier proposal,[5] the Board has tentatively concluded that the route modifications set forth in the three-carrier proposal are required. Under the three-carrier system, the present route structure of Alaska Airlines and Pacific Northern would remain the same (with the possible exception of the Seattle-Juneau-Ketchikan service noted below), but the economic potential of both carriers would be greatly enhanced by the termination of Pan American's Alaskan service (with the same exception noted above in the two-carrier proposal), and the possible restriction of Northwest's Seattle-Anchorage service to flights originating or terminating in the Orient. Northwest would retain its unrestricted New York/Chicago/Twin Cities-Anchorage authority. Portland would be eliminated from the certificate of Alaska Airlines and Pacific Northern and all of said carriers' operations would become subject to Part 207 of the Board's Economic Regulations,[6] the restriction of off-route charter activity. The study indicates that the Seattle-Juneau-Ketchikan service would be handled by either Alaska Airlines or Pacific Northern, or both, as determined by the investigation.

The study should serve as the focal point for the trial of this case and we direct that, except for the Seattle-Juneau-Ketchikan service and filings for intra-Alaskan segments falling within the scope of this investigation (i.e., those between the four key Alaskan markets: Juneau, Ketchikan, Fairbanks, and Anchorage) wherein the attached study has not proposed a single solution, the presentation of participants in the proceeding, unless otherwise ordered by the Board upon good cause shown therefor, be pointed to showing why, and in what manner, the conclusions derived from the study calling for a three-carrier system should be modified. This approach should restrict the hearing to relevant and material facts and minimize procedural delay.

The Board is consolidating in this proceeding as many of its currently docketed filings as will fall within the scope of this case as described in the attached study, dismissing, without prejudice, in accordance with § 302.12(d) of the Board's procedural regulations, those parts of filings falling outside the bounds of this proceeding. Further, though certain applications pending on the Board's docket pertain solely to intra-Alaska air service, they do fall within the scope of this proceeding and are hereby made a part thereof. Appendix 10 of the attached study sets forth those dockets being consolidated in this proceeding.

The Board has seen fit to limit the scope of this proceeding to include only that portion of mainland-Alaska air service from Portland-Seattle to Alaska. Presently, all mainland to Alaska authority other than Northwest's route from the east is limited to Portland-Seattle, and, in view of the tenor of this investigation, i.e., to find means to limit rather than expand the services, the Board finds it in the public interest to so limit this proceeding. Moreover, the Board finds that in view of the tentative conclusions pertaining to Pacific Northwest-Alaska service, calling for a reduction in the number of carriers conducting such service, no new or additional service filings, other than those for intra-Alaskan segments falling within the scope of this investigation (i.e., those between the four key Alaskan markets: Juneau, Ketchikan, Fairbanks, and Anchorage), will be accepted for consolidation with this proceeding.

Since substantial subsidy funds may be involved and bearing in mind that the President expressed concern with the Board's current large subsidy expenditures and future forecasts in his budget message to Congress during January 1961, the Board is interested in a prompt resolution of the issues set forth herein and, accordingly, is ordering the matter set for an expedited hearing: *Accordingly, it is ordered:*

1. That an investigation be and it hereby is instituted to determine whether the public convenience and necessity require, and the Board should order, the alteration, amendment, modification, suspension, termination, or renewal, in whole or in part, of the certificates of Alaska Airlines, Inc., for routes 128 and 138; Northwest Airlines, Inc., for routes 129 and 140; Pacific Northern Airlines, Inc., for routes 139 and 142; and Pan American World Airways, Inc., for Alaskan route FAM–20; insofar as Pacific Northwest-Alaska air transportation is concerned, in accordance with the tentative conclusions set forth in the attached study;

2. That no new or additional service filings, other than those for intra-Alaska segments falling within the scope of this investigation (i.e., those between the four key Alaskan markets: Juneau, Ketchikan, Fairbanks, and Anchorage), will be accepted for consolidation with this proceeding;

3. That the proceeding instituted herein shall be known as the Pacific Northwest-Alaska Air Service Case, Docket 13463, and shall be set down for prompt hearing before an Examiner of the Board at a time and place to be hereafter determined;

4. That a copy of this order shall be served upon Alaska Airlines, Inc., Northern Consolidated Airlines, Inc., Northwest Airlines, Inc., Pacific Northern Airlines, Inc., Pan American World Airways, Inc., and Wien Alaska Airlines, Inc., who are hereby made parties to the proceeding;

5. That, insofar as they request additional authority between Seattle and Portland, on the one hand and Anchorage, Fairbanks, Ketchikan and Juneau on the other hand, and between the four Alaskan markets, the following dockets are consolidated in this proceeding, the remaining portions thereof being dismissed without prejudice: Dockets 7407, 7411, 7429, 9347, 9533, 9652, 9763, 9764, 11240, 11678, and 11685;

6. That, in view of the fact that Alaska Northern Airlines, Inc., is no longer in existence, its filing for Mainland-Alaska air service Docket 10109, is moot and is hereby dismissed; and

7. That this order be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 62–2763; Filed, Mar. 21, 1962; 8:48 a.m.]

[5] Should such an event occur, the Board could issue a supplemental order delineating the objectives of the investigation along the lines set forth in the first proposal.

[6] Since the United States-Alaska Service Case 14 C.A.B. 122, 145 (1951), Pacific Northern and Alaska Airlines have remained classified as Alaskan air carriers with respect to operations wholly within Alaska and consequently have not come under Part 207 as to charter operations they have made as Alaskan air carriers.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14566]

ERVIN L. CRANDELL, JR.

Order To Show Cause

In the matter of Ervin L. Crandell, Jr., 86 Sea Avenue, Quincy 69, Massachusetts, Docket No. 14566; order to show cause why there should not be revoked the license for Radio Station 1W7018 in the Citizens Radio Service.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that pursuant to § 1.76 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee, as follows: Official Notice of Violation mailed on August 9, 1961, which alleged that on August 2, 1961, Citizens radio station 1W7018 was operated for purposes of transmitting communications which were not substantive to the business or personal activities of the licensee, and that 2-minute silent periods were not observed at 5-minute intervals, in violation of § 19.61 (a), (c), and (f) of the Commission's rules;

It further appearing, that the above-named licensee received the said Official Notice of Violation, but did not reply thereto, whereupon the Commission, by letter dated September 15, 1961, again brought this matter to his attention and requested that the licensee respond to the

Commission's letter within fifteen days from its receipt, stating the measures which had been taken or were being taken to bring the operation of the radio station into compliance with the Commission's rules; and

It further appearing, that although the licensee acknowledged the receipt of the Commission's letter, no satisfactory response thereto was made, whereupon on October 3, 1961, a further letter was written to the licensee notifying him that his answer was incomplete in that he had failed to indicate that any action had been taken to assure against future violations; and

It further appearing, that the licensee did not reply to the Commission's letter of October 3, 1961, and on January 17, 1962, a further letter was sent to him by certified mail—return receipt requested (Certified No. 97221) which again brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within ten days of its receipt; and

It further appearing, that receipt of the Commission's letter of January 17, 1962, was acknowledged by the signature of the licensee's agent, Mrs. Frances A. Crandell, on January 20, 1962, to a Post Office Department return receipt; and

It further appearing, that although more than ten days have elapsed since the licensee's receipt of the Commission's letter, no reply was made thereto; and

It further appearing, that in view of the foregoing, the licensee has repeatedly violated § 1.76 of the Commission's rules:

It is ordered, This 15th day of March 1962, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned radio station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Acting Secretary send a copy of this Order by certified mail—return receipt requested—to the said licensee.

Released: March 19, 1962.

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

[F.R. Doc. 62-2765; Filed, Mar. 21, 1962; 8:49 a.m.]

[Docket No. 14563; FCC 62M-390]

MULLINS & MARION BROADCASTING CO. (WJAY)

Order Scheduling Hearing

In re application of the Mullins & Marion Broadcasting Company (WJAY), Mullins, South Carolina, Docket No. 14563, File No. BP-14308; for construction permit.

It is ordered, This 15th day of March 1962, that Chester F. Naumowicz, Jr. will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on May 15, 1962, in Washington, D.C.: *And, it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Wednesday, April 18, 1962.

Released: March 16, 1962.

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

[F.R. Doc. 62-2766; Filed, Mar. 21, 1962; 8:49 a.m.]

[Docket Nos. 14557, 14558; FCC 62M-387]

PAGE BOY RADIO CORP. AND NEW YORK TECHNICAL INSTITUTE OF CINCINNATI, INC.

Order Scheduling Hearing

In re applications of Page Boy Radio Corporation, Detroit, Michigan, Docket No. 14557, File No. 2133-C2-P-61; for construction permit to establish a one-way signaling common carrier station in the Domestic Public Land Mobile Radio Service in Detroit, Michigan. New York Technical Institute of Cincinnati, Inc., Detroit, Michigan, Docket No. 14558, File Nos. 138-C2-ML-62, 1149-C2-ML-62; for modification of license of station KQC884 to add type 3A2 emission to the presently authorized 6A3 emission.

It is ordered, This 15th day of March 1962, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on May 15, 1962, in Washington, D.C.

Released: March 16, 1962.

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

[F.R. Doc. 62-2767; Filed, Mar. 21, 1962; 8:49 a.m.]

[Docket No. 14562; FCC 62M-389]

POTOMAC BROADCASTING CORP. (WPIK)

Order Scheduling Hearing

In re application of Potomac Broadcasting Corporation (WPIK), Alexandria, Virginia, Docket No. 14562, File No. BP-11400; for construction permit.

It is ordered, This 15th day of March 1962, that Charles J. Frederick will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on May 17, 1962, in Washington, D.C.: *And, it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Tuesday, April 17, 1962.

Released: March 16, 1962.

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

[F.R. Doc. 62-2768; Filed, Mar. 21, 1962; 8:49 a.m.]

[Docket No. 14565]

SEACOAST RADIO AND TV CO.

Order To Show Cause

In the matter of Seacoast Radio and TV Company, Belmar, New Jersey, Docket No. 14565, order to show cause why there should not be revoked the license for Radio Station 2Q1730 in the Citizens Radio Service.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of section 308(b) of the Communications Act of 1934, as amended;

It appearing, that, on August 25, 1961, the Commission addressed a letter to the licensee requesting that certain information be furnished under oath or affirmation in connection with certain alleged violations of the Commission's rules and the Communications Act of 1934, as amended; and

It further appearing, that, on September 3, 1961, the licensee replied to the Commission's above-mentioned letter but that such reply was unsatisfactory inasmuch as it failed to indicate that suitable measures were being taken by the licensee to assure proper operation of the radio station, and inasmuch as such reply was not under oath or affirmation as required by section 308(b) of the Communications Act of 1934, as amended; and

It further appearing, that, on September 27, 1961, the Commission addressed a letter to the licensee advising it of the reasons why its above-mentioned reply was unsatisfactory and affording it ten days in which to furnish a satisfactory response; and

It further appearing, that, on October 11, 1961, the licensee advised, by telegram, that response to the Commission's letter of September 27, would be delayed due to the illness of the licensee's president but that response would be made as "soon as possible"; and

It further appearing, that, on November 15, 1961, the Commission sent a letter to the licensee by certified mail—return receipt requested (No. 97370) furnishing an additional opportunity to respond to the Commission's letter of September 27, 1961; and

It further appearing, that, on February 9, 1962, the Commission sent by certified mail, return receipt requested (No. 97036) a letter to the licensee, pursuant to section 308(b) of the Communications Act of 1934, as amended, requesting that it respond to certain interrogatories contained therein within ten days of its receipt of such letter; and

It further appearing, that no reply to the Commission's letters of September 27, 1961, November 15, 1961, and February 9, 1962, has been made; and

It further appearing, that, in view of the foregoing, the licensee has repeatedly violated section 308(b) of the Communications Act of 1934, as amended, by failing to furnish under oath or affirmation, written statements of fact to enable the Commission to determine whether its license for the subject Citizens radio station should be revoked;

It is ordered, This 15th day of March, 1962, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's Statement of Delegations of Authority that the licensee show cause why the license for Citizens radio station 2Q1730 should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be designated by subsequent order; and

It is further ordered, That the Acting Secretary send a copy of this Order to the licensee by certified mail, return receipt requested at its last known address of 711 F Street, Belmar, New Jersey.

Released: March 15, 1962.

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

[F.R. Doc. 62-2769; Filed, Mar. 21, 1962; 8:49 a.m.]

[Docket Nos. 13227, 13251; FCC 62M-391]

SEVEN LOCKS BROADCASTING CO. AND TENTH DISTRICT BROADCASTING CO.

Order Continuing Hearing Conference

In re applications of Seven Locks Broadcasting Company, Potomac-Cabin John, Maryland, Docket No. 13227, File No. BP-11877; Mary Cobb and Richard S. Cobb, d/b as Tenth District Broadcasting Company, McLean, Virginia, Docket No. 13251, File No. BP-13153; for construction permits.

It is ordered, This 15th day of March 1962, that, on the Hearing Examiner's own motion, with the concurrence of all counsel, another session of the further prehearing conference in the above-entitled proceeding, presently scheduled for April 9, 1962, be and the same is hereby continued to May 2, 1962, at 9 a.m., in Washington, D.C.

Released: March 16, 1962.

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

[F.R. Doc. 62-2770; Filed, Mar. 21, 1962; 8:50 a.m.]

[Docket No. 14515; FCC 62M-398]

WDSU BROADCASTING CORP. (WDSU)

Order Continuing Hearing

In re application of WDSU Broadcasting Corporation (WDSU), New Orleans, Louisiana, Docket No. 14515, File No. BMP-9055; for modification of construction permit.

It is ordered, This 15th day of March 1962, that, on the Hearing Examiner's own motion, with the concurrence of all counsel, the prehearing conference in the above-entitled proceeding, presently scheduled for March 22, 1962, at 9:00 a.m., be and the same is hereby continued to May 1, 1962, at 9 a.m., in Washington, D.C.

It is further ordered, That the hearing now scheduled for April 19, 1962, be and the same is hereby continued to a date to be fixed at the prehearing conference.

Released: March 16, 1962.

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

[F.R. Doc. 62-2771; Filed, Mar. 21, 1962; 8:50 a.m.]

[Docket Nos. 14559-14561; FCC 62M-388]

WPOW, INC., ET AL.

Order Scheduling Hearing

In re applications of WPOW, INC., New York, New York, Docket No. 14559, File No. BR-263, for renewal of license of Station WPOW; Rensselaer Polytechnic Institute, Troy, New York, Docket No. 14560, File No. BR-267, for renewal of license of Station WHAZ; Debs Memorial Radio Fund, Incorporated, New York, New York, Docket No. 14561, File No. BR-270; for renewal of license of Station WEVD (Main & Aux.)

It is ordered, This 15th day of March 1962, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on May 21, 1962, in Washington, D.C.: *And, it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Monday, April 16, 1962.

Released: March 16, 1962.

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

[F.R. Doc. 62-2772; Filed, Mar. 21, 1962; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP62-101]

FORT SMITH GAS CORP.

Notice of Application

MARCH 15, 1962.

Take notice that on October 19, 1961, Fort Smith Gas Corporation (Applicant), 35 South Seventh Street, Fort Smith, Arkansas, filed in Docket No CP62-101 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Mississippi River Fuel Corporation (Mississippi) to establish physical connection of its facilities with those which Applicant proposes to construct and operate, and to sell and deliver to Applicant natural gas for resale and distribution in the Towns of Biggers, Reyno, and Datto, Arkansas, and their environs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a total of 1.69 miles of individual 2-inch lateral transmission pipelines extending from three separate connections on Mississippi's mainline to each of the three towns, and natural gas distribution systems in each of the three towns. Through these facilities Applicant would supply the natural gas requirements of the communities which are estimated to be as follows:

	Requirements in Mcf at 14.73 psia year of service		
	1st	2d	3d
Peak day	408	419	427
Annual	44,909	46,895	51,955

Applicant proposes to finance the required facilities with funds obtained through the issuance of short-terms notes. The short-term notes would be refinanced at a later date, if necessary, with the issuance of long-term financing.

Applicant has obtained franchises from the Towns of Biggers, Reyno, and Datto, and has obtained a certificate of public convenience and necessity from the Arkansas Public Service Commission.

Protests, requests for hearing, or petitions to intervene in this proceeding may be filed with the Federal Power Commission, Washington 25, D.C. in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 9, 1962.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-2740; Filed, Mar. 21, 1962; 8:47 a.m.]

[Docket No. CP62-163]

KENTUCKY WEST VIRGINIA GAS CO.

Notice of Application and Date of Hearing

MARCH 15, 1962.

Take notice that on January 9, 1962, Kentucky West Virginia Gas Company (Applicant), Second National Bank Building, Ashland, Kentucky, filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing certain additional delivery points for its previously authorized exchange of natural gas with Inland Gas Company, Inc. (Inland) and for permission and approval to abandon certain delivery points in connection with the said exchange of gas with Inland, all as more fully set forth in the application on file with the Commission and open to public inspection.

In Docket No. G-272, Applicant was authorized to make deliveries of natural gas to Inland at certain points in Kentucky according to the terms of a letter agreement between Applicant and Inland. Applicant states that the agreement was amended from time to time and on October 9, 1950, the agreement was restated in the form that now appears in Applicant's FPC Tariff, Original Volume No. 2, First Revised Sheet Nos. 7, 8, and 9. Applicant states further that since October 1950, there were occasions when it was desirable to eliminate certain of the delivery points and at times

to add others. The subject application seeks authorization for such additions and eliminations. These delivery point modifications have been embodied in an agreement, dated October 5, 1961, between Applicant and Inland.

The delivery points proposed to be abandoned and the reasons therefor are:

(1) Johnson County point, Johnson County, Kentucky. The gas delivered by Applicant at this point had a high sulfide content and Applicant had to pay 4-cents per Mcf to Inland to purify it. A decrease in gas available at this point, and a breakdown in Inland's purification plans resulted in the elimination of this delivery.

(2) Lackey point, Floyd County, Kentucky. Lackey was established as a balancing point but very little gas was ever delivered from it by Applicant. Increased supplies of gas available to Inland from other sources eliminated the need for this delivery point.

(3) Mousie point, Knott County, Kentucky. The delivery pressure on Inland's gas system became greater than the pressure that was available from Applicant's facilities.

The following are the additional delivery points provided for in the agreement of October 5, 1961, and for which Applicant herein seeks authorization:

(1) Nelson Allen delivery point, Magoffin County, Kentucky. Established by letter agreement dated June 22, 1953, and restated in agreement dated October 5, 1961.

(2) Camp Branch, Rockhouse Creek delivery point, Knott County, Kentucky. Established by letter agreement dated April 2, 1956, and restated in agreement dated October 5, 1961.

(3) Abbott Creek, Myrtle delivery point, Magoffin County, Kentucky. Established by letter agreement dated October 9, 1953, modified by letter agreement dated September 17, 1954, and restated in agreement dated October 5, 1961.

(4) Oakley Creek, Magoffin County delivery point, Magoffin County, Kentucky. Subject of application in Docket No. CP61-343.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 16, 1962, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 6, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-2741; Filed, Mar. 21, 1962; 8:47 a.m.]

OLIN GAS TRANSMISSION CORP. AND FRANKFORT OIL CO.

Notice of Applications and Date of Hearing

MARCH 15, 1962.

Olin Gas Transmission Corporation, Docket No. CP62-125; Joseph E. Seagram & Sons, Inc., d.b.a. Frankfort Oil Company, Docket No. CI62-370.

Take notice that on November 20, 1961, Olin Gas Transmission Corporation (Olin), 1700 Commerce Building, New Orleans 12, Louisiana, and on October 9, 1961, Joseph E. Seagrams & Sons, Inc., d.b.a. Frankfort Oil Company (Frankfort), Dallas, Texas, filed in Docket Nos. CP62-125 and CI62-370, respectively, applications pursuant to section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the sale of natural gas to Texas Eastern Transmission Corporation (Texas Eastern) from their respective interests in the North Gillis Field, Calcasieu Parish, Louisiana,[1] all as more fully set forth in the applications on file with the Commission and open to public inspection.

The proposed sale will be made pursuant to a contract dated March 21, 1961, between Frankfort and Texas Eastern. Olin has adopted and ratified said contract.

The sale of natural gas will be made at a proposed total initial price of 15.8007 cents per Mcf at 15.025 psia.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 19, 1962, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 9, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefore is made.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-2742; Filed, Mar. 21, 1962; 8:47 a.m.]

[1] Olin and Frankfort each own an undivided one-half interest in the subject production.

[Docket No. CP62-103]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application and Date of Hearing

MARCH 15, 1962.

Take notice that on October 20, 1961, as supplemented on October 26, 1961, November 1, 1961, and January 24, 1962, Transcontinental Gas Pipe Line Corporation (Applicant), 3100 Travis Street, Houston, Texas, filed in Docket No. CP62-103 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction during a 12-month period and the operation of field booster compressor facilities and appurtenant equipment in order to enable Applicant to take into its certificated pipeline system volumes of natural gas which may be purchased in presently connected fields, at a total cost not to exceed $1,000,000, with no single installation to exceed a cost of $250,000, all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.

The application states that in a number of fields connected to Applicant's system declining wellhead pressures are diminishing the volumes of gas which would otherwise be deliverable to Applicant by contract, thus necessitating the installation of the facilities for which authorization is requested herein.

The facts in presently known required compression additions under this application are:

FIELD AND COUNTY

	South Karon and Coquat Field, Live Oak County	Goebel Field, Live Oak County	St. Charles Field, Aransas County	Kittiewest Field, Live Oak County	Arneckville Field, Dewitt County		South Pleasanton Field, Atascosa County
Reserves available to applicant as of Jan. 1, 1961.	5,696,000 Mcf	5,139,000 Mcf	40,286,000 Mcf	1,728,000 Mcf	13,681,000 Mcf		8,436,000 Mcf.
Seller and FPC Gas Rate Schedule Number.	Western Natural Gas Co., R.S. 7.	Western Natural Gas Co., R.S. 7.	Western Natural Gas Co., R.S. 7. Continental Oil Co., R.S. 105.	Western Natural Gas Co., R.S. 7.	Atlantic Refining Co., R.S. 42.	Western Natural Gas Co., R.S. 7.	Robert Mosbacher (Operator) et al., R.S. 16.
Average price in cents/Mcf (including tax reimbursement).	*Cents* 8.921227	*Cents* 8.921227	*Cents* 8.921227	*Cents* 8.921227	*Cents* 8.890883	*Cents* 8.890883	*Cents* 14.189
Incremental compression.	1.639	1.639	1.639	1.639	1.29	1.29	1.46
Total cost (cents/Mcf).	10.560227	10.560227	10.560227	10.560227	10.180883	10.180883	15.649

Applicant states that installation of compressors in other fields may become necessary during the period for which authorization is sought herein.

The proposed facilities would be financed from cash on hand or, alternatively, by short term bank loans.

No new sale or service is proposed in the application. The construction and operation of the subject facilities will not increase the delivery capacity of its main transmission system, Applicant states.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice, that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 17, 1962, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 6, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-2743; Filed, Mar. 21, 1962; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

HAROLD L. GRAHAM, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER.

A. Deletions: None.
B. Additions: None.

This statement is made as of February 2, 1962.

HAROLD L. GRAHAM, Jr.

[F.R. Doc. 62-2756; Filed, Mar. 21, 1962; 8:48 a.m.]

WILBUR F. DUERINGER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months.

A. Deletions: None.
B. Additions: None.

This statement is made as of March 12, 1962.

WILBUR F. DUERINGER.

MARCH 12, 1962.

[F.R. Doc. 62-2737; Filed, Mar. 21, 1962; 8:46 a.m.]

LOUIS F. FRAZZA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months.

A. Deletions: No change.
B. Additions: No change.

This statement is made as of March 5, 1962.

LOUIS F. FRAZZA.

MARCH 5, 1962.

[F.R. Doc. 62-2738; Filed, Mar. 21, 1962; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30-V-36]

MANAGER, DISASTER FIELD OFFICE, CRESTVIEW, FLORIDA

Delegation Relating to Financial Assistance Functions

Delegation of Authority No. 30-V-36 (27 F.R. 1080) to the Manager, Disaster Field Office, Crestview, Florida, is hereby rescinded in its entirety. The Office was closed effective February 9, 1962.

Effective date: February 9, 1962.

JAMES F. HOLLINGSWORTH,
Regional Director,
Atlanta Regional Office.

[F.R. Doc. 62-2746; Filed, Mar. 21, 1962; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 611]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 19, 1962.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 64768. By order of March 15, 1962, the Transfer Board approved the transfer to Union Cartage, Inc., Seattle, Wash., of portion of Certificate No. MC 43260, issued November 24, 1959, to Daughters the Mover, Inc., doing business as West Seattle Transfer & Storage Co. and Burien-Midway Van & Storage Co. and Central Van & Storage Co., Seattle, Wash., authorizing the transportation of: General commodities, excluding household goods, and other specified commodities. George H. Hart, 640 Central Building, Seattle 4, Wash., attorney for applicants.

No. MC–FC 64816. By order of March 14, 1962, the Transfer Board approved the transfer to Howard Raef, Prescott, Kans., of Certificate in No. MC 760 issued August 17, 1960, to Carl L. Black, Prescott, Kans., authorizing the transportation of: Livestock, and household goods, from Pleasanton, Kans., to Kansas City, Mo., farm machinery, farm machinery parts, building materials, hardware, livestock and household goods from Kansas City, Mo., Pleasanton, Kans., feed and seed, from Kansas City, Mo., to Prescott, Kans., seed, from Prescott, Kans., to Kansas City, Mo., livestock, logs, and household goods from Fulton, Kans., to Kansas City, Mo., general commodities, excluding household goods, commodities in bulk, and other specified commodities, from Kansas City, Mo., to Fulton, Kans.

No. MC–FC 64850. By order of March 15, 1962, the Transfer Board approved the transfer to Wirth Bus Service, Inc., Palmyra, N.Y., of Corrected Certificate No. MC 115812 and certificate No. MC 115812 Sub 1, issued March 13, 1957 and October 2, 1959, to Theodore R. Wirth, Palmyra, N.Y., authorizing the transportation of passengers and their baggage, in charter service, over irregular routes, beginning and ending at Geneva, N.Y., points in Wayne County, N.Y., and points in that portion of Ontario County, N.Y., bounded by a line beginning at the intersection of the Monroe-Ontario County line and New York Highway 251, and extending eastward along New York Highway 251 to junction N.Y. Highway 96, thence along N.Y. Highway 96 through Victor and Phelps, N.Y., to junction New York Highway 14, thence northward along New York Highway 14 to the Wayne-Ontario County line, thence west and south along the Wayne-Ontario and Monroe-Ontario County lines, respectively, to point of beginning, including points on the highways indicated; and extending to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and beginning and ending at points in Monroe County, N.Y., and extending to points in Connecticut, Maine, Maryland, New Hampshire, New York (except New York, N.Y.), Pennsylvania, and Vermont. Paul T. Rubery, 31 Main Street, East, Rochester 14, N.Y., attorney at law.

No. MC–FC 64858. By order of March 14, 1962, the Transfer Board approved the transfer to Scenic Hawkeye Stages, Inc., Decorah, Iowa, of the operating rights in Certificate No. MC 113418, issued April 25, 1955, and Certificate No. MC 113418 Sub 1, issued June 5, 1957, to Dewees Bus Lines, a corporation, Oelwein, Iowa, authorizing the transportation, over irregular routes, of passengers and their baggage, in round-trip charter operations, beginning and ending at Oelwein, Iowa, and points within 60 miles of Oelwein, except Waterloo, Iowa, points on U.S. Highway 63 north of Waterloo, and points on Iowa Highway 9, and extending to points in Colorado, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, and Pennsylvania, and beginning and ending at Oelwein, Iowa, and points within 60 miles of Oelwein (except Waterloo, Iowa, and points on U.S. Highway 63 north of Waterloo, and points on Iowa Highway 9 between Davis Corners, Iowa, and Mississippi River (near Lansing, Iowa) and extending to points in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Idaho, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming, and the District of Columbia. Erwin Larson, Ellis Block, Charles City, Iowa, applicants' attorney.

No. MC–FC 64862. By order of March 16, 1962, the Transfer Board approved the transfer to Carlson's Garage, Inc., North East, Md., of Permit No. MC 119675 Sub 1, issued December 29, 1960, to N.E.S.T. Co. (a corporation), North East, Md., authorizing the transportation of: stone, crushed stone, and crushed stone screenings, in bulk, in dump vehicles, from the site of the plant of Maryland Materials, Inc., located about 5 miles north of North East, Md., to points in Delaware. Charles McD. Gillan, Jr., 315 Glen Rae Drive, Baltimore 28, Md., and Daniel W. Shoemaker, 103 East Market Street, York, Pa. attorneys for applicants.

No. MC–FC 64872. By order of March 14, 1962, the Transfer Board approved the transfer to Meldrum the Mover Ltd., Montreal, Quebec, Canada, of Certificate No. MC 16911, issued January 27, 1958, to Agnes Meldrum, doing business as Meldrum The Mover, Montreal, Quebec, Canada, authorizing the transportation of household goods, between points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, on the one hand, and, on the other, ports of entry on the boundary of the United States and Canada east of Sault Ste. Marie, Mich., including Sault Ste. Marie. Meldrum The Mover, 6645 Sherbrooke Street West, Montreal, Quebec, Canada.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 62–2752; Filed, Mar. 21, 1962; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–3848]

APEX MINERALS CORP.

Order Summarily Suspending Trading

MARCH 16, 1962.

The common stock, $1.00 par value, of Apex Minerals Corporation, being listed and registered on the San Francisco Mining Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2–2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the San Francisco Mining Exchange be summarily suspended in order to prevent fraudulent, deceptive, or manipulative acts or practices, this order to be effective for a period of ten (10) days, March 17, 1962, to March 26, 1962, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 62–2745; Filed, Mar. 21, 1962; 8:47 a.m.]

CUMULATIVE CODIFICATION GUIDE—MARCH

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during March.

3 CFR

5 CFR

6 CFR

7 CFR

7 CFR—Continued

8 CFR

9 CFR

10 CFR

12 CFR

13 CFR

14 CFR

16 CFR

17 CFR

18 CFR

FEDERAL REGISTER

Telephone WOrth 3-3261

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D.C.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER, or the CODE OF FEDERAL REGULATIONS.